

DISTRICT OF COLUMBIA CODE

ANNOTATED

1981 EDITION

1999 SUPPLEMENT

UPDATING THE LAWS, GENERAL AND PERMANENT IN THEIR NATURE,
RELATING TO OR IN FORCE OR FINALLY ADOPTED IN THE DISTRICT
OF COLUMBIA (EXCEPT SUCH LAWS AS ARE OF APPLICATION IN
THE DISTRICT OF COLUMBIA BY REASON OF BEING GENERAL
AND PERMANENT LAWS OF THE UNITED STATES), AS OF
APRIL 27, 1999, NOTES TO EMERGENCY LEGISLATION
ADOPTED AS OF MARCH 31, 1999, REORGANIZATION
PLANS NOT DISAPPROVED AS OF
DECEMBER 31, 1998, AND NOTES TO
DECISIONS REPORTED AS OF
MARCH 1, 1999

VOLUME 3A

1994 REPLACEMENT

Prepared and Published Under Authority of the Council of the District
of Columbia as supervised by the Office of the General Counsel,
Charlotte M. Brookins-Hudson, General Counsel.
Brian K. Flowers, Legislative Counsel.
Benjamin F. Bryant, Jr., Codification Counsel.
Karen R. Westbrook, Codification Assistant.

Edited and Annotated by the Editorial Staff of the Publishers.

LEXIS Law Publishing
CHARLOTTESVILLE, VIRGINIA
1999

COPYRIGHT © 1995 — 1999
BY
THE DISTRICT OF COLUMBIA

All rights reserved.

ISBN 0-327-08397-2
ISBN 0-327-08394-8 (set)



5031716

“Michie” and the Open Book and Gavel logo are trademarks of
LEXIS Law Publishing, a division of Reed Elsevier Inc.

TITLE 4. POLICE AND FIRE DEPARTMENTS.

CHAPTER 1. METROPOLITAN POLICE.

Sec.

4-104.1. District of Columbia Chief of Police.

4-135. Records open to public inspection.

4-147. [Repealed].

4-191. Transfer of ammunition feeding devices prohibited.

Sec.

4-192. Cooperative agreements between federal agencies and Metropolitan Police Department.

§ 4-101. Police District created.

Council Police Misconduct and Personnel Management Special Committee Creation Emergency Resolution of 1997. — Pursuant to Resolution 12-344, effective December 16, 1997, the Council approved the creation of a special committee for the Council of Police Misconduct and Personnel Management.

Special Committee on Police Misconduct and Personnel Management Extension Resolution of 1998. — Pursuant to Resolution 12-690, effective September 22, 1998, the Council approved an extension for the Special Committee on Police Misconduct and Personnel Management.

§ 4-104. Appointments; assignments; promotions; applicable civil service provisions; vacancies.

Delegation of Personnel Authority in the Metropolitan Police Department to

the Chief of Police. — See Mayor's Order 97-88, May 9, 1997 (44 DCR 2959).

§ 4-104.1. District of Columbia Chief of Police.

(a) Section 4-104 and any other provision of law affecting the employment of the Chief of the Metropolitan Police Department of the District of Columbia shall not apply to the Chief of the Department to the extent that such paragraph or provision is inconsistent with the terms of an employment agreement entered into between the Chief, the Mayor of the District of Columbia, and the District of Columbia Financial Responsibility and Management Assistance Authority.

(b)(1) During a control year, the Chief of the Metropolitan Police Department of the District of Columbia shall be appointed by the Mayor of the District of Columbia as follows:

(A) Prior to appointment, the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this subsection referred to as the "Authority") may submit recommendations for the appointment to the Mayor.

(B) In consultation with the Authority and the Council of the District of Columbia, the Mayor shall nominate an individual for appointment and notify the Council of the nomination.

(C) After the expiration of the 7-day period which begins on the date the Mayor notifies the Council of the nomination under subparagraph (B) of this paragraph, the Mayor shall notify the Authority of the nomination.

(D) The nomination shall be effective subject to approval by a majority vote of the Authority.

(2) During a control year, the Chief of the Metropolitan Police Department of the District of Columbia may be removed by the Authority or by the Mayor with the approval of the Authority.

(3) In this subsection, the term "control year" has the meaning given such term in § 47-393(4).

(c) This section shall be effective as of April 21, 1998. (May 1, 1998, 112 Stat. 100, Pub. L. 105-174, § 10007.)

§ 4-106. Probation period.

Delegation of Personnel Authority in the Metropolitan Police Department to the Chief of Police. — See Mayor's Order 97-88, May 9, 1997 (44 DCR 2959).

§ 4-107. Composition of force; duties of positions.

Establishment of drug free zones. — For provisions regarding procedures for the establishment of a public area as a drug free zone by the Chief of Police, see § 33-582.

For temporary provisions regarding procedures for the establishment of a public area as a drug free zone by the Chief of Police, see § 3 of the Anti-Loitering/Drug Free Zone Emergency Act of 1996 (D.C. Act 11-278, May 29, 1996, 43 DCR 2974), § 3 of the Anti-Loitering/Drug Free Zone Legislative Review Emergency

Act of 1996 (D.C. Act 11-319, July 31, 1996, 43 DCR 4487), § 3 of the Anti-Loitering/Drug Free Zone Congressional Review Emergency Act of 1996 (D.C. Act 11-426, October 28, 1996, 43 DCR 6331), § 3 of the Anti-Loitering/Drug Free Zone Second Congressional Review Emergency Act of 1996 (D.C. Act 11-468, December 30, 1996, 44 DCR 175), and § 3 of the Anti-Loitering/Drug Free Zone Congressional Review Emergency Act of 1997 (D.C. Act 12-55, March 31, 1997, 44 DCR 2219).

§ 4-114. Same — Property of individual or corporation; compensation and regulation.

Section references. — This section is referred to in § 4-618.2.

Delegation of Personnel Authority in the Metropolitan Police Department to

the Chief of Police. — See Mayor's Order 97-88, May 9, 1997 (44 DCR 2959).

§ 4-115. General duties of Mayor.

D.C. Law Review. — For symposium, "The Unnecessary Detention of Children in the District of Columbia — Pre-initial hearing deten-

tion: Are the Police Department and Social Services intake following the law?", see D.C. L. Rev. 193 (1995).

§ 4-117. Conduct of force; power to fine, suspend and dismiss; written charges; opportunity to be heard; removal without trial; amendment of charges.

Delegation of Personnel Authority in the Metropolitan Police Department to the Chief of Police. — See Mayor's Order 97-88, May 9, 1997 (44 DCR 2959).

D.C. Law Review. — For symposium, "The Unnecessary Detention of Children in the Dis-

trict of Columbia — Pre-initial hearing detention: Are the Police Department and Social Services intake following the law?", see 3 D.C. L. Rev. 193 (1995).

§ 4-118. Trial boards.

Section references. — This section is referred to in §§ 1-633.3 and 4-924.

Delegation of Authority — Secretary of the District of Columbia. — See Mayor's Order 95-26, January 27, 1995.

Delegation of Authority — Office of the Secretary. — See Mayor's Order 97-87, May 6, 1997 (44 DCR 2958).

§ 4-135. Records open to public inspection.

(a) The records to be kept by paragraphs (1), (2), and (4) of § 4-131 shall be open to public inspection when not in actual use, and this requirement shall be enforceable by mandatory injunction issued by the Superior Court of the District of Columbia on the application of any person.

(b) The name, address, date of birth, occupation, and photograph of any person convicted of a violation of Chapter 27 of Title 22, shall be made available to the public upon written request, in exchange for a reasonable fee established by the Mayor or his or her designee. (R.S., D.C., § 389; June 29, 1953, 67 Stat. 99, ch. 159, title III, § 301(b); Aug. 20, 1954, 68 Stat. 755, ch. 778, § 2; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(13); Oct. 25, 1972, 86 Stat. 1108, Pub. L. 92-543, § 1; 1973 Ed., § 4-135; May 24, 1996, D.C. Law 11-130, § 2, 43 DCR 1570.)

Effect of amendments. — D.C. Law 11-130 added (b).

Emergency act amendments. — For temporary amendment of section, see § 2 of the Safe Streets Anti-Prostitution Emergency Amendment Act of 1996 (D.C. Act 11-252, April 15, 1996, 43 DCR 2139).

Legislative history of Law 11-130. — Law 11-130, the "Safe Streets Anti-Prostitution Amendment Act of 1996," was introduced in

Council and Assigned Bill No. 11-439, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on February 6, 1996, and March 5, 1996, respectively. Signed by the mayor on March 15, 1996, it was assigned Act No. 11-237 and transmitted to both Houses of Congress for its review. D.C. Law 11-130 became effective on May 24, 1996.

§ 4-140. Arrests — Limitation on period of questioning; advisement of rights; release uncharged; admissibility of confessions.

Questioning arrested juvenile as an adult. — Because juvenile was arrested for murder as an adult pursuant to a valid arrest warrant and whereas jurisdiction was then transferred to the Criminal Division, at the

time juvenile gave his custodial statement, Superior Court Juvenile Rule 105 was not applicable; thus, detective was free to interview him. In re D.H., App. D.C., 666 A.2d 462 (1995).

§ 4-142. Same — Neglect to make for offense committed in presence.

Members of the police force are held to be always on duty, and are required to take police action when crimes are committed in their presence. *District of Columbia v. Coleman*, App. D.C., 667 A.2d 811 (1995); *Lande v. Menage Ltd. Partnership*, App. D.C., 702 A.2d 1259 (1997).

District must take action when police officers break the law. — Viewing this provision with § 4-176 and D.C. Municipal Regula-

tion 207.1, which requires officers to use only the minimum force necessary to accomplish their mission, it is clear that the District has a policy to take action when fellow officers break the law; it is not the policy of the District to condone illegal behavior by police officers. *Gregory v. District of Columbia*, 957 F. Supp. 299 (D.D.C. 1997).

Criminal penalties. — The failure of an officer to exercise arrest powers when a crime is

committed in the officer's presence may subject him to criminal penalties. *Lande v. Menage Ltd. Partnership*, App. D.C., 702 A.2d 1259 (1997).

Cited in *Holder v. District of Columbia*, App. D.C., 700 A.2d 738 (1997).

§ 4-147. Supervisory power over certain classes of business — Generally.

Repealed.

(R.S., D.C., § 404; June 11, 1878, 20 Stat. 107, ch. 180, § 6; 1973 Ed., § 4-147; Apr. 20, 1999, D.C. Law 12-261, § 1231, 46 DCR 3142.)

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced into Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second

readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

§ 4-150. Same — Interference with police.

Cited in *Karriem v. District of Columbia*, App. D.C., 717 A.2d 317 (1998).

§ 4-153. Same — Lost, stolen or abandoned property — Custody.

Cited in *District of Columbia v. Patterson*, App. D.C., 667 A.2d 1338 (1995).

§ 4-157. Same — Return of property — General requirements; multiple claimants; immunity; property needed as evidence; notice to owner; disposition upon failure to claim.

Cited in *Johnson v. Gibson*, 14 F.3d 61 (D.C. Cir. 1994), cert. denied, — U.S. —, 115 S. Ct. 70, 130 L. Ed. 2d 26 (1994).

§ 4-162. Immunity from damages to property; exception; “gross negligence” defined.

Cited in *District of Columbia v. Walker*, App. D.C., 689 A.2d 40 (1997).

§ 4-169. Property treated as abandoned.

Cited in *Johnson v. Gibson*, 14 F.3d 61 (D.C. Cir. 1994), cert. denied, — U.S. —, 115 S. Ct. 70, 130 L. Ed. 2d 26 (1994).

§ 4-176. Use of unnecessary or wanton force.

District must take action when police officers break the law. — Viewing this provision with § 4-142 and D.C. Municipal Regulation 207.1, which requires officers to use only the minimum force necessary to accomplish their mission, it is clear that the District has a policy to take action when fellow officers break

the law; it is not the policy of the District to condone illegal behavior by police officers. *Gregory v. District of Columbia*, 957 F. Supp. 299 (D.D.C. 1997).

Cited in *Taylor v. District of Columbia*, App. D.C., 691 A.2d 121 (1997); *Holder v. District of Columbia*, App. D.C., 700 A.2d 738 (1997).

§ 4-191. Transfer of ammunition feeding devices prohibited.

Except as provided § 6-2375, and § 22-3217, the Metropolitan Police Department shall not transfer any ammunition feeding device in its possession to any person or entity other than a law enforcement officer or governmental agency for law enforcement purposes. (Sept. 8, 1995, D.C. Law 11-35, § 2, 42 DCR 3255; Sept. 22, 1995, D.C. Law 11-50, § 2, 42 DCR 3680.)

Temporary addition of section. — Section 2 of D.C. Law 11-35 added this section.

Section 3(b) of D.C. Law 11-35 provided that the act shall expire on the 225th day of its having taken effect.

Emergency act amendments. — For temporary addition of section, see § 2 of the Prohibition on the Transfer of Firearms Emergency Act of 1995 (D.C. Act 11-58, May 18, 1995, 42 DCR 2574).

Legislative history of Law 11-35. — Law 11-35, the “Prohibition on the Transfer of Firearms Temporary Act of 1995,” was introduced in Council and assigned Bill No. 11-233. The Bill was adopted on first and second readings on May 2, 1995, and June 6, 1995, respectively.

Signed by the Mayor on June 19, 1995, it was assigned Act No. 11-68 and transmitted to both Houses of Congress for its review. D.C. Law 11-35 became effective on September 8, 1995.

Legislative history of Law 11-50. — Law 11-50, the “Prohibition on the Transfer of Firearms Act of 1995,” was introduced in Council and assigned Bill No. 11-234, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 6, 1995, and June 20, 1995, respectively. Signed by the Mayor on July 10, 1995, it was assigned Act No. 11-92 and transmitted to both Houses of Congress for its review. D.C. Law 11-50 became effective on September 22, 1995.

§ 4-192. Cooperative agreements between federal agencies and Metropolitan Police Department.

(a) *Agreements.* — Each covered federal law enforcement agency may enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia, including taking appropriate action to enforce subsection (e) of this section (except that nothing in such an agreement may be construed to grant authority to the United States to prosecute violations of subsection (e) of this section).

(b) *Contents of agreement.* — An agreement entered into between a covered federal law enforcement agency and the Metropolitan Police Department pursuant to this section may include agreements relating to:

(1) Sending personnel of the agency on patrol in areas of the District of Columbia which immediately surround the area of the agency’s jurisdiction, and granting personnel of the agency the power to arrest in such areas;

(2) Sharing and donating equipment and supplies with the Metropolitan Police Department;

(3) Operating on shared radio frequencies with the Metropolitan Police Department;

(4) Permitting personnel of the agency to carry out processing and papering of suspects they arrest in the District of Columbia; and

(5) Such other items as the agency and the Metropolitan Police Department may agree to include in the agreement.

(c) *Coordination with U.S. Attorney's Office.* — Agreements entered into pursuant to this section shall be coordinated in advance with the United States Attorney for the District of Columbia.

(d) *Covered federal law enforcement agencies described.* — In this section, the term “covered federal law enforcement agency” means any of the following:

- (1) United States Capitol Police.
- (2) United States Marshals Service.
- (3) Library of Congress Police.
- (4) Bureau of Engraving and Printing Police Force.
- (5) Supreme Court Police.
- (6) Amtrak Police Department.
- (7) Department of Protective Services, United States Holocaust Museum.
- (8) Government Printing Office Police.
- (9) United States Park Police.
- (10) Bureau of Alcohol, Tobacco, and Firearms.
- (11) Drug Enforcement Administration.
- (12) Federal Bureau of Investigation.
- (13) Criminal Investigation Division, Internal Revenue Service.
- (14) Department of the Navy Police Division, Naval District Washington.
- (15) Naval Criminal Investigative Service.
- (16) 11th Security Police Squadron, Bolling Air Force Base.
- (17) United States Army Military District of Washington.
- (18) United States Customs Service.
- (19) Immigration and Naturalization Service.
- (20) Postal Inspection Service, United States Postal Service.
- (21) Uniformed Division, United States Secret Service.
- (22) United States Secret Service.
- (23) National Zoological Park Police.
- (24) Federal Protective Service, General Services Administration, National Capital Region.
- (25) Defense Protective Service, Department of Defense Washington Headquarters Services.
- (26) Office of Protective Services, Smithsonian Institution.
- (27) Office of Protective Services, National Gallery of Art.
- (28) United States Army Criminal Investigation Command, Department of the Army Washington District, Third Military Police Group.
- (29) Marine Corps Law Enforcement.
- (30) Department of State Diplomatic Security.
- (31) United States Coast Guard.
- (32) United States Postal Police. (Aug. 5, 1997, 111 Stat. 782, Pub. L. 105-33, § 11712(a)-(d); Apr. 20, 1999, D.C. Law 12-264, § 16, 46 DCR 2118.)

Effect of amendments. — D.C. Law 12-264 validated a previously made technical correction.

Legislative history of Law 12-264. — Law

12-264, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted

on first and second readings on November 10, 1998, and December 1, 1998 respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Effective date of Title XI of Pub. L. 105-33. — Section 11721 of Title XI of Pub. L. 105-33, 111 Stat. 786, the National Capital Revitalization and Self-Government Improvement Act of 1997, provided that except as

otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.

CHAPTER 2. UNITED STATES PARK POLICE.

§ 4-201. United States watchmen to be known as United States Park Police; powers and duties.

Agreements between Park Police and Metropolitan Police cannot alter jurisdiction. — Where the U.S. Park Police were patrolling an area normally patrolled by officers of the Metropolitan Police Department pur-

suant to an agreement between the two departments, the agreement did not alter the jurisdiction or responsibilities of Park Police officers. *Estate of Carter v. District of Columbia*, 903 F. Supp. 165 (D.D.C. 1995).

§ 4-202. Organization.

Agreements between Park Police and Metropolitan Police cannot alter jurisdiction. — Where the U.S. Park Police were patrolling an area normally patrolled by officers of the Metropolitan Police Department pur-

suant to an agreement between the two departments, the agreement did not alter the jurisdiction or responsibilities of Park Police officers. *Estate of Carter v. District of Columbia*, 903 F. Supp. 165 (D.D.C. 1995).

§ 4-203. Equipment; extra compensation.

Appropriations for uniforms or allowances. — Section 105 of Pub. L. 105-83, 111 Stat. 1561, provided that appropriations available to the Department of the Interior for

salaries and expenses shall be available for uniforms or allowances therefor, as authorized by this section.

CHAPTER 3. FIRE DEPARTMENT.

Sec.
4-317.1. Fire and arson investigation — Authority generally; authority to en-

ter and examine; arrest and warrant powers.

§ 4-301. Area of service; division of District into fire companies; approval required for major changes in manner of fire protection.

Closing of companies. — For temporary changes in Fire and Emergency Services Department, see § 502 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217), and § 802 of the Omnibus Budget Support Congressional Re-

view Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 802 of D.C. Law 11-52 provided that, pursuant to D.C. Law 1-111, the Council approved the following changes in the Fire and Emergency Services Department:

(1) The Fire and Emergency Medical Services Department may permanently close Rescue Squad 4, located at 4930 Connecticut Avenue, N.W., and Truck Company 1, located at 500 F Street, N.W.

(2) The Fire and Emergency Medical Services Department may rotate the closing of no more than 5 companies on a daily basis.

For temporary change in the Fire and Emergency Medical Services Department to allow it to rotate the closing of no more than 8 companies on a daily basis, see § 202 of the Fiscal Year 1996 Budget Support Emergency Act of 1996 (D.C. Act 11-264, April 26, 1996, 43 DCR 2412).

Section 201 of D.C. Law 11-152, provided that pursuant to § 4-301, the Council approves the change in the Fire and Emergency Medical Services Department to allow it to rotate the closing of no more than 8 companies on a daily basis.

Section 404 of D.C. Law 11-198 provided that "notwithstanding any other provision of law, the Fire and Emergency Medical Services Department shall discontinue the rotational closing of any fire or rescue company after September 30, 1996."

Section 405 of D.C. Law 11-198 repealed § 802(2) of D.C. Law 11-52.

Section 406 of D.C. Law 11-198 repealed § 201 of D.C. Act 11-279.

Section 1001 of D.C. Law 11-198 provided that Titles I, II, III, V, and VI and §§ 405 and 406 of the act shall apply after September 30, 1996.

Relocation of Engine Company No. 24 Resolution of 1994. — Pursuant to Resolution 10-247, effective January 14, 1994, the Council authorized the relocation of Engine Company No. 24 of the Fire and Emergency Medical Services Department.

§ 4-317.1. Fire and arson investigation — Authority generally; authority to enter and examine; arrest and warrant powers.

(a) The Fire Chief, the Fire Marshal, and his authorized representative shall have the authority to investigate the cause, origin, and circumstances of every fire, explosion, or hazardous materials emergency in which the Fire Department has a reasonable interest. When the Fire Chief, the Fire Marshal, or his authorized representative has reason to believe that a fire, explosion, or hazardous materials incident may be the result of a violation of any law, he shall immediately take custody of and safeguard all physical evidence in connection therewith, and shall have the authority to prohibit the disturbance or removal of any material, substance, device, or utility in, or upon, any building or property where the emergency occurred until such time as the investigation of the incident is complete; provided, however, that the Metropolitan Police Department shall be the primary investigative agency in fires, explosions, and hazardous materials incidents involving critical injury, death, or assaults with intent to kill.

(b) The Fire Chief, the Fire Marshal, or his authorized representative shall have the authority at all times, in performance of the duties imposed by the provisions of this section, to enter upon or examine any area, building or premises, vehicle or other thing when there is probable cause to believe that fires or attempts to cause fires exist or which at the time are burning. He shall have the authority to enter, at any time, any building or property adjacent to that on which the fire or attempt to cause fires occurred, should he deem it necessary in the proper discharge of his duties, and may, at his discretion, take full control and custody of such buildings and premises and place such person in charge thereof as he may deem proper until his examination and investigation shall be complete.

(c) The Fire Marshal and such other personnel, as are designated in writing by the Fire Chief, shall have and exercise and are hereby invested with, the same general police powers including arrest powers as regular members of the

Metropolitan Police Department for the express purpose of enforcing the fire safety laws in effect in the District of Columbia, including, but not limited to, this section. This power shall extend to any arrest, the securing of warrants pursuant to Chapter 5 of Title 23 of the D.C. Code, or other lawful action necessary to permit the peaceful completion of any lawful action by the Fire Department; provided, that the Fire Marshall and other designated arson investigators, shall have successfully completed a course of training in the safe handling of firearms and the use of deadly force, and each person shall be qualified to use a firearm according to the standards applicable to officers of the Metropolitan Police Department. The employee may not carry a firearm in the course of official duties unless designated by the Fire Chief in writing as having the authority to carry a firearm. The Fire Chief shall issue written guidelines pertaining to the authority to carry firearms, the appropriate use of firearms, firearms issuance and security, the use of force including prohibitions on the use of the chokehold pursuant to §§ 4-188 through 4-190, searches and seizures, and arrests. (Mar. 26, 1999, D.C. Law 12-176, § 2, 45 DCR 5662.)

Emergency act amendments. — For temporary addition of section, see § 2 of the Arson Investigators Emergency Amendment Act of 1998 (D.C. Act 12-406, July 13, 1998, 45 DCR 4388), § 2 of the Arson Investigators Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-466, October 23, 1998, 45 DCR 7838), see § 2 of the Arson Investigators Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-539, December 24, 1998, 45 DCR 297).

Section 7 of D.C. Act 12-466 provides for the application of the act.

Section 7 of D.C. Act 12-539 provides for the application of the act.

Legislative history of Law 12-176. — Law 12-176, the “Arson Investigator Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-485, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 5, 1998 and June 2, 1998, respectively. Signed by the Mayor on July 20, 1998, it was assigned Act No. 12-418 and transmitted to both Houses of Congress for its review. D.C. Law 12-176 became effective on March 26, 1999.

CHAPTER 4. SALARIES.

Sec.

4-408. Additional compensation for helicopter pilot, bomb disposal, or scuba diving duty.

4-416. Basic compensation of officers and members of United States Park

Sec.

Police and United States Secret Service Uniformed Division.

4-416.1. Conversion to new salary schedule.

4-420.1. Council authorized to change or suspend provisions.

§ 4-408. Additional compensation for helicopter pilot, bomb disposal, or scuba diving duty.

Each officer or member of the Metropolitan Police force, United States Secret Service Uniformed Division, and United States Park Police force assigned on or after the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972: (1) to perform the duty of a helicopter pilot; or (2) to render explosive devices ineffective or to otherwise dispose of such devices shall receive, in addition to his scheduled rate of basic compensation, \$2,270 per annum so long as he remains in such assignment. Further, each officer or member of the metropolitan police force assigned on or after August 29, 1972, to the Harbor Patrol division within the Metropolitan Police Department as scuba divers shall receive in addition to his or her scheduled

rate of basic compensation, \$2,710 per annum so long as he or she remains in such assignment. The additional compensation authorized by this section shall be paid to an officer or member in the same manner as he is paid basic compensation to which he is entitled, except that when such an officer or member ceases to be in such an assignment, the loss of such additional compensation shall not constitute an adverse action for the purposes of § 7511 et seq. of Title 5 of the United States Code. No officer or member who receives the additional compensation authorized by this section may receive additional compensation under § 4-411. (Aug. 1, 1958, 72 Stat. 483, Pub. L. 85-584, title II, § 202; Sept. 2, 1964, 78 Stat. 881, Pub. L. 88-575, title I, § 103; Aug. 29, 1972, 86 Stat. 636, Pub. L. 92-410, title I, § 104; 1973 Ed., § 4-825; Sept. 3, 1974, 88 Stat. 1036, Pub. L. 93-407, title I, § 101(a)(2), (3); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Apr. 20, 1999, D.C. Law 12-252, § 2, 46 DCR 1127.)

Effect of amendments. — D.C. Law 12-252 inserted the second sentence.

Legislative history of Law 12-252. — Law 12-252, the “Hazardous Duty Compensation for Metropolitan Police Department Scuba Divers Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-142, which was referred to the Committee of the Whole.

The Bill was adopted on first and second readings on December 1, 1998 and December 15, 1998, respectively. Signed by the Mayor on December 29, 1998, it was assigned Act No. 12-593 and transmitted to both Houses of Congress for its review. D.C. Law 12-252 became effective on April 20, 1999.

§ 4-416. Basic compensation of officers and members of United States Park Police and United States Secret Service Uniformed Division.

(a) Except as provided in subsections (b) and (c) of this section, the rates of basic compensation of officers and members of the United States Park Police and the United States Secret Service Uniformed Division shall be the same as the rates of compensation, including longevity increases, provided in §§ 4-406 to 4-420, for officers and members of the Metropolitan Police force in corresponding or similar classes.

(b)(1) Effective at the beginning at the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under § 5305 of Title 5, United States Code, in the rates of pay under General Schedule, the annual rate of basic compensation of officers and members of the United States Park Police force shall be adjusted by the Secretary of the Interior, by an amount (rounded to the next highest multiple of \$5) equal to the percentage of such annual rate of pay which corresponds to the overall percentage (as set forth in the applicable report transmitted to the Congress under such § 5305) of the adjustment made in the rates of pay under the General Schedule.

(2) No adjustment in the annual rate of basic compensation of such officers and members may be made except in accordance with paragraph (1) of this subsection.

(3) Any reference in any law to the salary schedule in § 4-406 with respect to officers and members of the United States Park Police force shall be considered to be a reference to such schedule as adjusted in accordance with this subsection.

(c)(1) The annual rates of basic compensation of officers and members of the United States Secret Service Uniformed Division, serving in classes corre-

sponding or similar to those in the salary schedule in § 4-406), shall be fixed accordance with the following schedule of rates:

SALARY SCHEDULE									
Salary class and title	Service steps								
	1	2	3	4	5	6	7	8	9
Class 1: Private	29,215	30,088	31,559	33,009	35,331	37,681	39,128	40,593	42,052
Class 4: Sergeant . . .	39,769	41,747	43,728	45,718	747,715	49,713			
Class 5: Lieutenant . .	45,148	47,411	49,663	51,924	54,180				
Class 7: Captain	52,523	55,155	57,788	60,388					
Class 8: Inspector . . .	60,886	63,918	66,977	70,029					
Class 9: Deputy									
Chief	71,433	76,260	81,113	85,950					
Class 10: Assistant									
Chief	84,694	90,324	95,967						
Class 11: Chief of the United States Secret Service Uniformed Divi- sion	98,383	104,923							

(2) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of title 5, United States Code (or any subsequent similar provision of law), in the rates of pay under the General Schedule (or any pay system that may supersede such schedule), the annual rates of basic compensation of officers and members of the United States Secret Service Uniformed Division shall be adjusted by the Secretary of the Treasury by an amount equal to the percentage of such annual rate of pay which corresponds to the overall percentage of the adjustment made in the rates of pay under the General Schedule.

(3) Locality-based comparability payments authorized under section 5304 of title 5, United States Code, shall be applicable to the basic pay under this section, except locality-based comparability payments may not be paid at a rate which, when added to the rate of basic pay otherwise payable to the officer or member, would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(4) Basic pay, and any longevity pay combined with basic pay may not be paid by reason of any provision of this subsection (disregarding any locality-based comparability payment payable under federal law) at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code.

(5) Any reference in any law to the salary schedule in § 4-406 with respect to officers and members of the United States Secret Service Uniformed Division shall be considered to be a reference to the salary schedule in paragraph (1) of this subsection as adjusted in accordance with this subsection.

(6)(A) Except as otherwise permitted by or under law, no allowance, differential, bonus, award, or other similar cash payment under this title or under title 5, United States Code, may be paid to an officer or member of the United States Secret Service Uniformed Division in a calendar year if, or to the extent that, when added to the total basic pay paid or payable to such officer or

member for service performed in such calendar year as an officer or member, such payment would cause the total to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year.

(B) This paragraph shall not apply to any payment under the following provisions of title 5, United States Code:

- (i) Subchapter III or VII of chapter 55, or section 5596.
- (ii) Chapter 57 (other than section 5753, 5754, or 5755).
- (iii) Chapter 59 (other than section 5928).

(7)(A) Any amount which is not paid to an officer or member of the United States Secret Service Uniformed Division in a calendar year because of the limitation under paragraph (6) of this section shall be paid to such officer or member in a lump sum at the beginning of the following year.

(B) Any amount paid under this paragraph in a calendar year shall be taken into account for purposes of applying the limitations under paragraph (6) of this subsection with respect to such calendar year.

(8) The Office of Personnel Management shall prescribe regulations as may be necessary (consistent with section 5582 of title 5, United States Code) concerning how a lump-sum payment under paragraph (7) of this subsection shall be made with respect to any employee who dies before an amount payable to such employee under paragraph (7) of this subsection is made. (Aug. 1, 1958, 72 Stat. 485, Pub. L. 85-584, title V, § 501; Aug. 29, 1972, 86 Stat. 639, Pub. L. 92-410, title I, § 111; 1973 Ed., § 4-833; Oct. 17, 1976, 90 Stat. 2493, Pub. L. 94-533, § 2; Oct. 7, 1980, 94 Stat. 1562, Pub. L. 96-396; Oct. 10, 1997, 111 Stat. 1285, Pub. L. 105-61, § 118(a); Nov. 19, 1997, 111 Stat. 2188, Pub. L. 105-100, § 159(a).)

Effect of amendments. — Section 118(a) of Pub. L. 105-61, 111 Stat. 1285, in (b)(1), deleted “and the annual rate of basic compensation of officers and members of the United States Secret Service Uniformed Division may be adjusted by the Secretary of the Treasury” following “Secretary of the Interior”; redesignated former (c) as (b)(3); in (b)(3), deleted “or to officers and members of the United States Secret Service Uniformed Division” following “United States Park Police,” and substituted “this subsection” for “subsection (b) of this section”; and added (c).

Section 159(a) of Pub. L. 105-100, 111 Stat. 2188, in (c)(4), substituted “longevity pay” for “locality pay.”

Effective date of Pub. L. 105-61. — Section 118(f) of Pub. L. 105-61, 111 Stat. 1285, provides that the provisions of § 118 shall become effective on the first day of the first pay period beginning after the date of enactment of the act. Public Law 105-61 was approved on October 10, 1997.

Effective date of § 159(a) of Pub. L. 105-100. — Section 159(b) of Pub. L. 105-100, 111 Stat. 2188, the District of Columbia Appropriations Act, 1988, provided that the amendment made § 159(a) is effective on the date of enactment of Pub. L. 105-61. Public Law 105-61 was approved on October 10, 1997.

References in text. — “Subchapter II of chapter 53 of title 5, United States Code,” referred to in (c)(4), is codified at 5 U.S.C. §§ 5311 to 5318.

“Subchapter III or VII of chapter 55,” referred to in (c)(6)(B)(i), are subchapters III and VII of chapter 55 of title 5, United States Code, codified at 5 U.S.C. § 5521 et seq., and 5 U.S.C. § 5561 et seq., respectively.

“Chapter 57,” referred to in (c)(6)(B)(ii), is chapter 57 of title 5, United States Code, codified at 5 U.S.C. § 5701 et seq.

“Chapter 59,” referred to in (c)(6)(B)(iii), is chapter 59 of title 5, United States Code, codified at 5 U.S.C. § 5901 et seq.

Savings Provision. — Section 118(d) of Pub. L. 106-61, 111 Stat. 1285, provided that on the effective date of § 118, any existing special salary rates authorized for members of the United States Secret Service Uniformed Division under § 5305 of title 5, United States Code (or any previous similar provision of law) and any special rates of pay or special pay adjustments under section 403, 404, or 405 of the Federal Law Enforcement Pay Reform Act of 1990 applicable to members of the United States Secret Service Uniformed Division shall be rendered inapplicable.

§ 4-416.1. Conversion to new salary schedule.

(a)(1) Effective on the first day of the first pay period beginning after October 10, 1997, the Secretary of the Treasury shall fix the rates of basic pay for members of the United States Secret Service Uniformed Division in accordance with this paragraph.

(2) Subject to paragraph (3) of this subsection, each officer and member receiving basic compensation, immediately prior to the effective date of this section, at one of the scheduled rates in the salary schedule in § 4-406, as adjusted by law and as in effect prior to the effective date of this section, shall be placed in and receive basic compensation at the corresponding scheduled service step of the salary schedule under § 4-416(c).

(3)(A) The Assistant Chief and the Chief of the United States Secret Service Uniformed Division shall be placed in and receive basic compensation in salary class 10 and salary class 11, respectively, in the appropriate service step in the new salary class in accordance with § 4-413.

(B) Each member whose position is to be converted to the salary schedule under § 4-416(c) as amended by this section, in accordance with § 118(a) of Pub. L. 105-61, and who, prior to October 10, 1997 has earned, but has not been credited with, an increase in his or her rate of pay shall be afforded that increase before such member is placed in the corresponding service step in the salary schedule under § 4-416(c).

(b) Except in the cases of the Assistant Chief and the Chief of the United States Secret Service Uniformed Division, the conversion of positions and individuals to appropriate classes of the salary schedule under § 4-416(c), and the initial adjustments of rates of basic pay of those positions and individuals, in accordance with subsection (a) of this section, shall not be considered to be transfers or promotions within the meaning of § 4-413.

(c) Each member whose position is converted to the salary schedule under § 4-416(c), in accordance with § 118(a) of Pub. L. 105-61, shall be granted credit for purposes of such member's first service step adjustment under the salary schedule in such § 4-416(c) for all satisfactory service performed by the member since the member's last increase in basic pay prior to the adjustment under that section. (Oct. 10, 1997, 111 Stat. 1285, Pub. L. 105-61, § 118(b).)

Effective date of Pub. L. 105-61. — Section 118(f) of Pub. L. 105-61, 111 Stat. 1285, provides that the provisions of § 118 shall become effective on the first day of the first pay period beginning after the date of enactment of the act. Public Law 105-61 was approved on October 10, 1997.

References in text. — Section 118(a) of Pub. L. 105-61, referred to in (a)(3)(B) and (c), is § 118(a) of the Treasury and General Government Appropriations Act, 1998.

Savings Provision. — Section 118(d) of Pub. L. 106-61, 111 Stat. 1285, provided that on

the effective date of § 118, any existing special salary rates authorized for members of the United States Secret Service Uniformed Division under § 5305 of title 5, United States Code (or any previous similar provision of law) and any special rates of pay or special pay adjustments under section 403, 404, or 405 of the Federal Law Enforcement Pay Reform Act of 1990 applicable to members of the United States Secret Service Uniformed Division shall be rendered inapplicable.

§ 4-420.1. Council authorized to change or suspend provisions.

(a) The Council of the District of Columbia is authorized to change or suspend by resolution the provisions of §§ 4-406, 4-407, 4-408, 4-409, 4-410, 4-411, 4-412, 4-413, 4-414, 4-415, 4-416, and 4-417 insofar as they relate to officers and members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department.

(b) The Council's authority to act pursuant to subsection (a) of this section shall be effective beginning on January 1, 1980. (Mar. 3, 1979, D.C. Law 2-139, § 506a, as added June 10, 1998, D.C. Law 12-124, § 201, 45 DCR 2464.)

Effect of amendments. — D.C. Law 12-124 added this section.

Temporary addition of section. — Section 3 of D.C. Law 12-36 added this section.

Section 5(b) of D.C. Law 12-36 provides that the act shall expire after the 225th day of its having taken effect or on the effective date of the Comprehensive Merit Personnel Act Pay Limit Amendment Act of 1997, whichever occurs first.

Emergency act amendments. — For temporary addition of this section, see § 3 of the Comprehensive Merit Personnel Act Pay Limit Emergency Amendment Act of 1997 (D.C. Act 12-115, July 18, 1997, 44 DCR 4501), § 3 of the Comprehensive Merit Personnel Act Pay Limit Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-179, October 30, 1997, 44 DCR 6948), and § 3 of the Comprehensive Merit Personnel Act Pay Limit Emergency Amendment Act of 1998 (D.C. Act 12-378, June 5, 1998, 45 DCR 4466).

Legislative history of Law 12-36. — Law 12-36, the "Comprehensive Merit Personnel Act Pay Limit Temporary Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-266. The Bill was adopted on first and second readings on June 17, 1997, and July 1, 1997, respectively. Signed by the Mayor on July

17, 1997, it was assigned Act No. 12-132 and transmitted to both Houses of Congress for its review. D.C. Law 12-36 became effective on October 23, 1997.

Legislative history of Law 12-124. — Law 12-124, the "Omnibus Personnel Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-44, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on February 3, 1998 and March 17, 1998, respectively. Signed by the Mayor on April 1, 1998, it was assigned Act No. 12-326 and transmitted to both Houses of Congress for its review. D.C. Law 12-124 became effective on June 10, 1998.

Construction of Law 12-124. — Section 301 of D.C. Law 12-124 provides that nothing in the act shall be construed as superseding the provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997, approved August 5, 1997 (Public Law 105-33; 111 Stat. 712), except that § 47-395.4(b)(3) is expressly superseded. Further, nothing in the act shall be construed as superseding the provisions of § 47-391.1 et seq. or of § 164 of the District of Columbia Appropriations Act, 1998, approved November 19, 1997 (Public Law 105-100; 111 Stat. 2160).

CHAPTER 5. POLICE AND FIREFIGHTERS MEDICAL CARE RECOVERY.

§ 4-503. Enforcement of right.

Cited in *Voytsechovska v. Albert*, 126 WLR 849 (Super. Ct. 1998).

CHAPTER 6. POLICE AND FIREFIGHTERS RETIREMENT AND DISABILITY.

Sec.

4-607. Definitions.

4-612. Deductions, deposits, and refunds; order of persons entitled to refunds for deductions.

Sec.

4-618. Optional retirement.

4-618.1. Retired police officer redeployment.

4-618.2. Retired police officer deployment as public school security personnel.

Sec.

4-622. Survivor benefits and annuities.

4-624. Cost-of-living adjustments of annuities.

4-625. Application of § 4-624.

4-628. Police and Firemen's Retirement and Relief Board.

Sec.

4-629. Accrue ment and payment of annuities; persons who may accept payment; waiver; reduction.

§ 4-601. Payment and deposit of moneys.

Section references. — This section is referred to in §§ 1-633.3, 1-712, 1-782.1, and 40-812.

Cited in *Moore v. United States*, App. D.C., 675 A.2d 71 (1996); *Floyd v. District of Colum-*

bia, 941 F. Supp. 164 (D.D.C. 1996); *Floyd v. District of Columbia*, 129 F.3d 152 (D.C. Cir. 1997); *Vaughan v. Nationwide Mut. Ins. Co.*, App. D.C., 702 A.2d 198 (1997).

§ 4-602. Credit for active service in military or naval forces.

Section references. — This section is referred to in § 40-812.

§ 4-603. Mayor to determine amount of pension relief.

Section references. — This section is referred to in §§ 4-605 and 40-812.

Cited in *Floyd v. District of Columbia*, 129 F.3d 152 (D.C. Cir. 1997).

§ 4-604. Equalization of pensions of widows and orphans granted prior to October 1, 1949.

Section references. — This section is referred to in § 40-812.

§ 4-605. Pension relief allowance or retirement compensation increase.

Section references. — This section is referred to in § 40-812.

Emergency act amendments. — For temporary amendment of section, see § 513 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217).

Legislative history of Law 10-135. — Law 10-135, the "Full Funding of Pension Liability Retirement Reform Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-515, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 1, 1994, and April 12, 1994, respectively. Signed by the Mayor on May 4, 1994, it was assigned Act No. 10-239 and transmitted to both Houses of Congress for its review.

Full Funding of Pension Liability Reform Amendment Act of 1994. — Section 303(b) of D.C. Law 10-135 amends § 4-605(e) by striking the phrase "who retire after the effective date of this act."

Section 401 of D.C. Law 10-135 provided that notwithstanding any other law, title 1 §§ 101 (b)(1) and (2), and titles II and III, shall apply to any action or transaction taken or undertaken with respect to the Police Officers and Fire Fighters' Retirement Fund, the Teachers' Retirement Fund and the Judges' Retirement Fund on and after October 1, 1995.

Section 501 of D.C. Law 10-135 provides that the act shall take effect on the later of: (1) completion of the 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in § 1-233(c)(1), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations; or (2) enactment by Congress of titles II and III, of this act and of an amendment to D.C. Code § 11-1563 which amends the first sentence in subsection (a) by inserting after "per centum" the following: "(or, with

respect to each pay period which begins on or after October 1, 1995, 4½ per centum)” and an amendment to D.C. Code § 11-1564 (d)(1) which inserts after “United States Code,” the following: “with respect to services performed before October 1, 1995, and equal to 4½ per centum of such salary, pay, or compensation with respect to services performed on or after October 1, 1995.”

Retention allowances. — Retired members of the Metropolitan Police Department were entitled to a matching increase in retirement payments upon legislatively approved increase in salaries of active members of the Metropolitan Police Department, denominated “retention allowance,” pursuant to the equalization provision of the District of Columbia Police and Firefighters Retirement and Disability Act.

District of Columbia v. Tarlosky, 675 A.2d 77 (D.C. App. 1996).

Locality pay adjustments. — Pursuant to the “equalization provision” in subsection (c), plaintiffs’ retirement pay should be increased to reflect the “locality pay adjustments” given to active duty officers. Lanier v. District of Columbia, 871 F. Supp. 20 (D.D.C. 1994).

Secret Service employees. — The 25% increase in availability pay granted by the Law Enforcement Availability Pay Act of 1994, 5 U.S.C. § 5545a, is an increase in salary to which the plaintiffs, retired Secret Service employees, would be entitled if they were in active service. Floyd v. District of Columbia, 941 F. Supp. 164 (D.D.C. 1996).

Cited in Floyd v. District of Columbia, 129 F.3d 152 (D.C. Cir. 1997).

§ 4-606. Computation of pension of certain retired officers.

Section references. — This section is referred to in § 40-812.

§ 4-607. Definitions.

Wherever used in §§ 4-607 to 4-630:

* * * * *

(18) The term “adjusted average pay” means the average pay of a member who was an officer or member of the United States Secret Service Uniformed Division, the United States Secret Service Division, the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one tenth of 1%) in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies; except that in the case of members hired on or after the first day of the first pay period that begins after October 29 1996, the increase shall not exceed 3% per annum. (Sept. 1, 1916, ch. 433, § 12(a); Aug. 21, 1957, 71 Stat. 391, Pub. L. 85-157, § 3; Oct. 26, 1970, 84 Stat. 1136, Pub. L. 91-509, § 1(1), (2); Dec. 7, 1970, 84 Stat. 1392, Pub. L. 91-532, § 1(a); Aug. 29, 1972, 86 Stat. 641, Pub. L. 92-410, title II, § 201(a)(1); 1973 Ed., § 4-521; Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(a), (d)(1); Oct. 1, 1976, D.C. Law 1-87, § 8(a), 23 DCR 2544; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 96-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 201, 206(a)(2); Jan. 8, 1988, 101 Stat. 1745, Pub. L. 100-238, § 103(d); Feb. 5, 1994, D.C. Law 10-68, § 13, 40 DCR 6311; Nov. 19, 1995, 109 Stat. 504, Pub. L. 104-52, § 630(a); Apr. 9, 1997, D.C. Law 11-218, § 2(a), 43 DCR 6172.)

Section references. — This section is referred to in §§ 1-622.3, 1-623.4, 1-624.1, 1-781.2, 4-314, 4-415, 4-603, 4-604, 4-605, 4-608, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618,

4-623, 4-624, 4-625, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, 9-118, 9-119, and 40-812.

Effect of amendments.

Public Law 104-52, 109 Stat. 504, inserted “the United States Secret Service Uniformed Division, the United States Secret Service Division” in (18).

D.C. Law 11-218 added the exception at the end of (18).

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 2(a) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

Legislative history of Law 11-218. — Law 11-218, the “New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-316. The Bill

was adopted on first and second readings on July 3, 1996, and October 1, 1996, respectively. Signed by the Mayor on October 18, 1996, it was assigned Act No. 11-432 and transmitted to both Houses of Congress for its review. D.C. Law 11-218 became effective on April 9, 1997.

Meaning of “increase in salary.” — A plain reading of the phrase “increase in salary” would include any increase in the amount that a worker receives in pay. *Lanier v. District of Columbia*, 871 F. Supp. 20 (D.D.C. 1994).

Child’s eligibility not restored by child’s divorce. — Divorce did not restore eligibility under subsection (5)(A)(iii) as a physically disabled child incapable of self-support; an annuity is terminated once an eligible child marries, and it is not reestablished upon a later divorce. *Downs v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 666 A.2d 860 (1995).

Cited in *Breen v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 659 A.2d 1257 (1995); *Jackson v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 717 A.2d 904 (1998).

§ 4-608. Application of amendments to §§ 4-607 and 4-622.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614,

4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-609. United States Secret Service Division; transfer of civil service funds; credit for prior service with other police forces.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-610, 4-612, 4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Cited in *Floyd v. District of Columbia*, 129 F.3d 152 (D.C. Cir. 1997).

§ 4-610. Creditable service.

Section references. — This section is referred to in §§ 1-624.1, 1-712, 1-782.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-611, 4-612, 4-614, 4-615, 4-618, 4-618.1, 4-618.2,

4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 5-128.1, 6-1403, 9-120, and 40-812.

§ 4-611. Application of amendment to § 4-610.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614,

4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-612. Deductions, deposits, and refunds; order of persons entitled to refunds for deductions.

(a) On and after the first day of the first pay period which begins on or after October 26, 1970 there shall be deducted and withheld from each member's basic salary an amount equal to 7% of such basic salary for all members hired before the first day of the first pay period that begins after October 29, 1996, and 8% of such basic salary for all members hired on or after the first day of the first pay period that begins after October 29, 1996. In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in § 1-702(6)) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by § 1-712; and in the case of any other member, such deductions and withholdings shall be paid to the Collector of Taxes of the District of Columbia, and shall be deposited in the Treasury to the credit of the District of Columbia.

* * * * *

(Apr. 9, 1997, D.C. Law 11-218, § 2(b), 43 DCR 6172.)

Section references. — This section is referred to in §§ 1-624.1, 1-712, 1-782.1, 4-314, 4-415, 4-601, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Effect of amendments. — D.C. Law 11-218 added the language beginning "for all members" to the end of the first sentence in (a).

Emergency act amendments. — For temporary amendment of section, see § 2(b) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 2(b) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of

1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

Legislative history of Law 10-135. — See note to § 4-605.

Legislative history of Law 11-218. — See note to § 4-607.

Full Funding of Pension Liability Reform Amendment Act of 1994. — Section 301 of D.C. Law 10-135 amended the first sentence of (a) by inserting "(or, with respect to a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, 8% for each pay period which begins on or after October 1, 1995)" following "7%."

As to the application and effective date of Law 10-135, see note to § 4-605.

§ 4-613. Payment of medical expenses — Active members.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614,

4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-614. Same — Total disability retirees.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Remedy for claims arising from treatment of injury which gave rise to disability. — Because injuries of firefighter who had

retired on total permanent disability allegedly occurred from treatment of the on-duty injuries that gave rise to his disability retirement, he was limited to the administrative remedy provided under the Disability Act, which he had not purported to exhaust; therefore, claims were properly dismissed as a matter of law. *Vargo v. Barry*, App. D.C., 667 A.2d 98 (1995).

§ 4-615. Retirement for disability — Not incurred in performance of duty.

Section references. — This section is referred to in §§ 1-624.1, 1-725, 4-181, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-616, 4-618, 4-620, 4-622, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

“Disease” defined. — The term “disease”, as used in subsection (a), includes pre-existing congenital conditions. *Haynie v. District of Columbia Police & Firefighters’ Retirement & Relief Bd.*, App. D.C., 640 A.2d 188 (1994).

Burden of proof not met. — Where the

government failed to meet its burden of showing that police officer’s disabling hearing loss was due to a non-work-related, pre-existing injury, police officer was entitled to a calculation benefits under § 4-616 instead of under this section. *Britton v. District of Columbia & Firefighters’ Retirement & Relief Bd.*, App. D.C., 681 A.2d 1152 (1996).

Cited in *Lamphier v. District of Columbia Police & Firefighters’ Retirement & Relief Bd.*, App. D.C., 698 A.2d 1027 (1997).

§ 4-616. Same — Incurred or aggravated in performance of duty.

Section references. — This section is referred to in §§ 1-624.1, 1-725, 4-181, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-617, 4-618, 4-620, 4-622, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Remedy for claims arising from treatment of injury which gave rise to disability. — Because injuries of firefighter who had retired on total permanent disability allegedly occurred from treatment of the on-duty injuries that gave rise to his disability retirement, he was limited to the administrative remedy provided under the Disability Act, which he had not purported to exhaust; therefore, claims were properly dismissed as a matter of law. *Vargo v. Barry*, App. D.C., 667 A.2d 98 (1995).

Claimant has burden of establishing on-duty aggravation

Where a firefighter is claiming that he became disabled as the result of a work-related aggravation of a pre-existing condition, he must show by a preponderance of the evidence that the initial condition was related to the performance of his duties. *Lamphier v. District of Columbia Police & Firefighters’ Retirement & Relief Bd.*, App. D.C., 698 A.2d 1027 (1997).

Cause of disability. — Where the government failed to meet its burden of showing that police officer’s disabling hearing loss was due to a non-work-related, pre-existing injury, police officer was entitled to a calculation benefits under this section instead of under § 4-615. *Britton v. District of Columbia & Firefighters’ Retirement & Relief Bd.*, App. D.C., 681 A.2d 1152 (1996).

Disability not the result of police duties. — Although police officer was pain free and

fully functional for 19 years until his on-duty injury, and had no visible symptoms before the fall took place, the medical evidence, including a doctor’s conclusion that the fall aggravated an underlying non-duty-related condition, provided substantial support for the Police and Firefighters Retirement and Relief Board’s finding that the officer’s malady was not the result of any trauma/injury sustained while performing his police duties. *Szewczyk v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 633 A.2d 1 (1993).

Burden of proof generally.

Subsection (a) required that the Police and Firefighters Retirement and Relief Board determine whether petitioner’s fall caused his disability, either directly or by aggravating a prior job-related injury. *Szewczyk v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 633 A.2d 1 (1993).

Once a claimant seeking benefits under subsection (a) of this section makes a showing of a disabling on-duty injury, the burden shifts to the government, which must then rebut this logical inference with substantial evidence disproving the inference of causation by an on-duty injury. *Lamphier v. District of Columbia Police & Firefighters’ Retirement & Relief Bd.*, App. D.C., 698 A.2d 1027 (1997).

Evidence insufficient to support Board’s determination of the percentage of disability criteria used in determining disabled firefighters annuity entitlement. *Breen v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 659 A.2d 1257 (1995).

Cited in *Thomas v. Abu-Ghannam*, 124 WLR 957 (Super. Ct. 1996).

§ 4-617. Application of amendment to § 4-616.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603,

4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629,

4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-618. Optional retirement.

(a) Any member who first becomes employed on or after the first day of the first pay period that begins after October 29, 1996, and who completes 25 years of service, and gives at least 60 days written advanced notice to his department stating his intention to retire and stating the date of which he will retire, may voluntarily retire from the service and shall be entitled to an annuity computed at a rate of 2.5% of the member's average pay times the number of years of the member's creditable service; provided that such notice requirement may be waived by the department head when, in his opinion, circumstances justify such waiver; provided further, that whenever the Mayor shall determine that there exists an emergency which is likely to endanger the safety of the public and that the public safety cannot be adequately protected except by suspending the retirement provisions of this subsection, then the Mayor shall be authorized to suspend the retirement provisions of this subsection in any one or more of the departments under his jurisdiction until such time as, in the opinion of the Mayor, public safety can be adequately protected without such suspension. Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the 90-day period beginning on November 17, 1979, and who completes 25 years of police or fire service and attains the age of 50 years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such 90-day period) who completes 20 years of police or fire service may, after giving at least 60 days written advance notice to his department head stating his intention to retire and stating the date on which he will retire, voluntarily retire from the service and shall be entitled to an annuity computed at the rate of 2½% of his average pay for each year of service; except that the rate of 3% of his average pay shall be used to compute each year's police or fire service in excess of:

(1) Twenty-five years, in the case of a member who becomes a member after the end of such 90-day period; or

(2) Twenty years, in the case of any other member; provided that such notice requirement may be waived by the department head when, in his opinion, circumstances justify such waiver; provided further, that whenever the Mayor or the Chief of the United States Secret Service Uniformed Division, or the Chief of the United States Park Police force, or the Chief of the United States Secret Service Division shall determine that there exists an emergency which is likely to endanger the safety of the public and that the public safety cannot be adequately protected except by suspending the retirement provisions of this subsection, then the Mayor or any of said Chiefs shall be authorized to suspend the retirement provisions of this subsection in any 1 or more of the departments under their respective jurisdictions until such time as, in the opinion of the Mayor or any of said Chiefs, respectively, public safety can be adequately protected without such suspension.

(a-1) For the purposes of the first sentence of subsection (a) of this section, the term "creditable service" means the period of employment with the

Metropolitan Police Department for police officers and the Fire Department of the District of Columbia for fire fighters first employed on or after the first day of the first pay period which begins after October 29, 1996, and includes any United States military service including the following:

(1) Credit for periods of military service prior to the member's date of separation, that interrupts the member's service with the Department, unless the member applies for and receives a refund of the member's salary deductions; and

(2) Credit for any period of time during which a member is on approved leave without pay to serve as a full-time officer or employee of a labor organization.

* * * * *

(Apr. 9, 1997, D.C. Law 11-218, § 2(c), 43 DCR 6172.)

Section references. — This section is referred to in §§ 1-624.1, 4-107, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-622, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Effect of amendments. — D.C. Law 11-218 added the present first sentence in the introductory language of (a); and inserted (a-1).

Emergency act amendments. — For temporary amendment of section, see § 2(c) of the

New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 2(c) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

Legislative history of Law 11-218. — See note to § 4-607.

§ 4-618.1. Retired police officer redeployment.

* * * * *

(d) A retired police officer who is rehired under this section shall be paid a salary of no more than that equal to the salary paid a Class 1, Step 5 Officer and shall not be eligible for longevity pay.

* * * * *

(g) The provisions of this section shall apply to any police officer hired after September 29, 1992. (Sept. 22, 1994, D.C. Law 10-170, § 2, 41 DCR 5147; Apr. 20, 1999, D.C. Law 12-253, § 2(a), 46 DCR 1274.)

Section references. — This section is referred to in § 40-812.

Effect of amendments.

D.C. Law 10-170 substituted "step 5" for "step 1" in (d).

D.C. Law 12-253 added (g).

Temporary amendments of section.

Section 3(a) of D.C. Law 12-45 added (g).

Section 3(b) of D.C. Law 12-45 provided that § 6(b) of D.C. Law 9-163 is repealed.

Section 6(b) of D.C. Law 12-45 provides that the act shall expire after 225 days of its having taken effect.

Section 2(a) of D.C. Law 12-204 added (g).

Section 2(b) of D.C. Law 12-204 provides that section 6(b) of the Retired Police Officer Rede-

ployment Amendment Act of 1992, D.C. Law 9-163, is repealed.

Section 4(b) of D.C. Law 12-204 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments.

For temporary amendment of section, see § 3(a) of the Juvenile Curfew and Retired Police Officer Redeployment Emergency Amendment Act of 1997 (D.C. Act 12-148, September 15, 1997, 44 DCR 5461).

Section 6 of D.C. Act 12-148 provides for the application of the act.

For temporary amendment of section, see § 3 of the Juvenile Curfew and Retired Police Officer Redeployment Congressional Review Emer-

agency Amendment Act of 1997 (D.C. Act 12-220, December 12, 1997, 44 DCR 7741).

Section 5 of D.C. Act 12-220 provided for application of the act.

For temporary amendment of section, see § 2 of the Retired Police Officer Redeployment Emergency Amendment Act of 1998 (D.C. Act 12-440, September 3, 1998, 45 DCR 6513), see § 2(a) of the Retired Police Officer Redeployment Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-507, November 10, 1998, 45 DCR 8144); § 2(a) of the Retired Police Officer Redeployment Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-596, January 20, 1999, 45 DCR 1140), and § 2(a) of the Retired Police Officer Redeployment Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-26, March 15, 1999, 46 DCR 2981).

Section 2 of D.C. Act 12-450, the "Retired Police Officer Redeployment Second Emergency Amendment Act of 1998," provides for the emergency applicability of D.C. Act 12-440.

Section 4 of D.C. Act 12-507 provides for the application of the act.

Section 4 of D.C. Act 12-596 provides for the application of the act.

Section 4 of D.C. Act 13-26 provides for the application of the act.

For temporary repeal of § 6(b) of D.C. Law 9-163, see § 3(b) of the Juvenile Curfew and Retired Police Officer Redeployment Emergency Amendment Act of 1997 (D.C. Act 12-148, September 15, 1997, 44 DCR 5461), § 3 of the Retired Police Officer Redeployment Emergency Amendment Act of 1998 (D.C. Act 12-440, September 3, 1998, 45 DCR 6513), § 2(b) of the Retired Police Officer Redeployment Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-507, November 10, 1998, 45 DCR 8144), § 2(b) of the Retired Police Officer Redeployment Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-596, January 20, 1999, 46 DCR 1140), and § 2(b) of the Retired Police Officer Redeployment Congressional Review Emergency Amendment Act of 1998 (D.C. Act 13-26, March 15, 1999, 46 DCR 2981).

Section 4 of D.C. Act 12-507 provides for the application of the act.

Section 4 of D.C. Act 12-596 provides for the application of the act.

Section 4 of D.C. Act 13-26 provides for the application of the act.

Legislative history of Law 10-170. — Law 10-170, the "Retired Police Officer Redeployment Salary Limit Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-471, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-290 and transmitted to both Houses of Congress for its review. D.C. Law 10-170 became effective on September 22, 1994.

Legislative history of Law 12-45. — Law 12-45, the "Juvenile Curfew and Retired Police Officer Redeployment Temporary Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-351. The Bill was adopted on first and second readings on September 8, 1997, and September 22, 1997, respectively. Signed by the Mayor on October 3, 1997, it was assigned Act No. 12-160 and transmitted to both Houses of Congress for its review. D.C. Law 12-45 became effective on February 26, 1998.

Legislative history of Law 12-204. — Law 12-204, the "Retired Police Officer Redeployment Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-748. The Bill was adopted on first and second readings on July 30, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 13, 1998, it was assigned Act No. 12-490 and transmitted to both Houses of Congress for its review. D.C. Law 12-204 became effective on March 26, 1999.

Legislative history of Law 12-253. — Law 12-253, the "Retired Police Officer Redeployment Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-239, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 1, 1998 and December 15, 1998, respectively. Signed by the Mayor on December 29, 1998, it was assigned Act No. 12-601 and transmitted to both Houses of Congress for its review. D.C. Law 12-253 became effective on April 20, 1999.

Expiration of Law 9-163. — Section 2(b) of D.C. Law 12-253 provided that § 6(b) of D.C. Law 9-163 is repealed.

§ 4-618.2. Retired police officer deployment as public school security personnel.

(a)(1) Except for disability annuitants, police officers retired from the Metropolitan Police force shall be eligible for rehire at the discretion of the Superintendent of the D.C. Public Schools as security personnel of the D.C. Public Schools without jeopardy to the retirement benefits of the police officers.

(2) Service pursuant to this section shall not count as creditable service for the purpose of § 4-610.

(3) A retired police officer who is rehired under this section shall be paid a salary of no more than that equal to the salary paid a Class 1, Step 1 Officer within the Metropolitan Police Department and shall not be eligible for longevity pay.

(4) A retired police officer who is rehired pursuant to this section shall be vested with the powers of a Special Police Officer with the Uniform Waivers pursuant to § 4-114, not including the authority to carry a firearm.

(b) All costs associated with the hiring of retired police officers as school security guards shall be absorbed within the D.C. Public Schools budget.

(c) A retired police officer who is rehired pursuant to this section and is vested with the powers of a Special Police Officer would be subject to the requirements of 6A DCMR, Chapter 11, which governs Special Police. (July 23, 1994, D.C. Law 10-136, § 2, 41 DCR 3006; May 16, 1995, D.C. Law 10-255, § 48, 41 DCR 5193.)

Section references. — This section is referred to in § 40-812.

Effect of amendments. — D.C. Law 10-255, substituted “this section” for “this act” and “this paragraph” throughout the section as enacted by D.C. Law 10-5.

Temporary addition of section. — Section 2 of D.C. Law 10-5 added this section.

Section 5(b) of D.C. Law 10-5 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1993, whichever occurs first.

Legislative history of Law 10-5. — Law 10-5, the “Retired Police Officer Public Schools Security Personnel Deployment Temporary Amendment Act of 1993,” was introduced in Council and assigned Bill No. 10-228. The Bill was adopted on first and second readings on April 7, 1993, and May 4, 1993, respectively. Signed by the Mayor on May 19, 1993, it was assigned Act No. 10-26 and transmitted to both Houses of Congress for its review. D.C. Law 10-5 became effective on July 23, 1993.

Legislative history of Law 10-136. — Law 10-136, the “Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994,” was introduced in

Council and assigned Bill No. 10-113, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 12, 1994, and May 3, 1994, respectively. Signed by the Mayor on May 18, 1994, it was assigned Act No. 10-241 and transmitted to both Houses of Congress for its review. D.C. Law 10-136 became effective on July 23, 1994.

Legislative history of Law 10-255. — Law 10-255, the “Technical Amendments Act of 1994,” was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective on May 25, 1995.

Application of Law 10-136. — Section 6(b) of D.C. Law 10-136 provided that the act shall apply as of March 6, 1994.

Board to install metal detectors. — Section 4 of D.C. Law 10-5 provided that “to the extent possible, the Board of Education shall install metal detectors in junior and senior high schools in accordance with the Board’s commitment in the fiscal year 1992 budget process.”

§ 4-619. Involuntary separation from service.

Section references. — This section is referred to in §§ 1-624.1, 1-624.2, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612,

4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-620. Recovery from disability; restoration to earning capacity; suspension or reduction of annuity.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-621, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-621. Application of amendment to § 4-620.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-622. Survivor benefits and annuities.

* * * * *

(b) In case of the death of any member before retirement, of any former member after retirement, or of any member entitled to receive an annuity under § 4-623 (regardless of whether such member is receiving such annuity at the time of death), leaving a widow or widower, such widow or widower shall be entitled to receive an annuity in the greater amount of:

(1) Forty per centum of such member's average pay at the time of death, or 40%:

(A) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division; or

* * * * *

(c) Each surviving child or student child of any member who dies before retirement, of any former member who dies after retirement, or of any member entitled to receive an annuity under § 4-623 (regardless of whether such member is receiving such annuity at the time of death), shall be entitled to receive an annuity equal to the smallest of:

(1) In the case of a member or former member who is survived by a wife or husband:

(A) Sixty per centum of:

(i) The member's average pay at the time of death; or

(ii) The adjusted average pay of the former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, divided by the number of eligible children;

* * * * *

(2) In the case of a member or former member who is not survived by a wife or husband:

* * * * *

(B) In the case of a member who was an officer or member of the United States Park Police Force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, 75% of the adjusted average pay of the former member, divided by the number of eligible children; or

* * * * *

(e)

* * * * *

(4) If the annuity of a child under paragraph (1) [(2)] or paragraph (2) [(3)] of this subsection terminates because of marriage and such marriage ends, the annuity shall resume on the first day of the month in which it ends, but only if the individual is not otherwise ineligible for the annuity.

* * * * *

(Nov. 19, 1995, 109 Stat. 505, Pub. L. 104-52, § 630(b); Nov. 19, 1997, 111 Stat. 2184, Pub. L. 105-100, § 152(b)(1).)

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-608, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-620, 4-623, 4-624, 4-625, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-634, 4-1104, 6-1403, and 40-812.

Effect of amendments. — Public Law 104-52, 109 Stat. 505, substituted “Of the adjusted average pay of such former member” for “Of the basis upon which the annuity, relief, or retirement compensation being received by such former member at the time of death was computed” at the beginning of (b)(1)(A); substituted “The adjusted average pay of the former member” for “The basis upon which the former member’s annuity at the time of death was computed” at the beginning of (c)(1)(A); and rewrote (c)(2)(B).

Section 152(b) of Pub. L. 105-100, 111 Stat. 2184, added (e)(4).

Applicability of § 152(b) of Pub. L. 105-100. — Section 152(b)(2) of Pub. L. 105-100, 111 Stat. 2184, the District of Columbia Appropriations Act, 1998, provided that the amendment made by § 152(b)(1) shall apply with respect to any termination of marriage taking effect on or after November 1, 1993, except that benefits shall be payable only with respect to amounts

accruing for periods beginning on the first day of the month beginning after the later of such termination of marriage or such date of enactment.

Marriage of child permanently ends annuity. — Police and Firefighters Retirement and Relief Board’s interpretation of subdivision (e)(2)(B) to mean that when an otherwise eligible child marries, his or her annuity permanently ends even if the child later becomes divorced, is reasonable. *Downs v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 666 A.2d 860 (1995).

Annuity is inchoate interest of spouse. — By its very nature a spousal survivor annuity is an inchoate interest belonging to a member’s spouse. *Jackson v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 717 A.2d 904 (1998).

Entitlement not waived. — Spouse did not waive annuity right by contracting with her spouse-member to waive any claims, rights, or interests she may have had in any IRA, retirement plan, pension, 401K account, or other such interests that were his. *Jackson v. District of Columbia Police & Firefighters Retirement & Relief Bd.*, App. D.C., 717 A.2d 904 (1998).

§ 4-623. Deferred annuities; refund of deductions; redemptions and interest.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614,

4-615, 4-618, 4-622, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-624. Cost-of-living adjustments of annuities.

* * * * *

(b) With respect to any annuity payable under §§ 4-607 to 4-630 which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia hired prior to January 1, 1980, or to a survivor of any such member, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

(c)(1) If, in accordance with subsection (b) of this section, the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

(A) In the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under subsection (b) of this section, adjusted to the nearest 1/10 of 1 per centum; or

(B) In the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of 1/12 of the per centum change computed under subsection (b) of this section, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

(2) On January 1, 1998, or within a reasonable time thereafter, the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998:

(A) Each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1 per centum; and

(B) Each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of 1/6 of such per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

(c-1) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Colombia, hired after December 31, 1979, or to a survivor of any such member, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

(c-2)(1) If, in accordance with subsection (c-1) of this section, the Mayor determines in a year, beginning with 1997, that the per centum change in the price index for the preceding year indicates a rise in the price index, each

annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

(A) In the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under subsection (c-1) of this section, adjusted to the nearest 1/10 of 1%; or

(B) In the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of 1/12 of the per centum change computed under subsection (c-1) of this section, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1%.

(2) On January 1, 1996, or within a reasonable time thereafter, the Mayor shall determine the per centum change in the price index published for December 1995 over the price index published for June 1995. If such per centum change indicates a rise in the price index, effective March 1, 1996:

(A) Each annuity having a commencing date on or before September 1, 1995, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1%; and

(B) Each annuity having a commencing date after September 1, 1995, and on or before March 1, 1996, shall be increased by a pro rata increase equal to the product of 1/6 of such per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1%.

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 11, 44 DCR 1271; Aug. 5, 1997, 111 Stat. 718, Pub. L. 105-33, § 11013(a); Sept. 18, 1998, D.C. Law 12-152, § 207(a), 45 DCR 4045.)

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-623, 4-625, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Effect of amendments. — D.C. Law 11-52, inserted "hired prior to January 1, 1980" in the introductory language of (b); and inserted (c-1) and (c-2).

D.C. Law 11-255 validated previously made technical and stylistic changes throughout (c-2).

Section 11013(a) of Pub. L. 105-33, 111 Stat. 718, rewrote (b) and (c).

D.C. Law 12-152 rewrote (c).

Temporary amendments of section. — Section 206(a) of D.C. Law 12-58 amended (b) and (c) to read as follows:

"(b) With respect to any annuity payable under §§ 4-607 to 4-630 which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia hired prior to January 1, 1980, or to a survivor of any such

member, for the payments of benefits accrued by police officers and fire fighters after June 30, 1997, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

"(c)(1) If (in accordance with paragraph (2)) the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

"(A) in the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under paragraph (2) of this subsection, adjusted to the nearest 1/10 of 1 per centum; or

"(B) in the case of an annuity having a commencing date after March 1 of such preceding

year, a pro rata increase equal to the product of $\frac{1}{12}$ of the per centum change computed under paragraph (2) of this subsection, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest $\frac{1}{10}$ of 1 per centum.

"(2) On January 1, 1998 (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998:

"(A) each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest $\frac{1}{10}$ of 1 per centum; and

"(B) each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of $\frac{1}{6}$ of such per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest $\frac{1}{10}$ of 1 per centum."

Section 209(b) of D.C. Law 12-58 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2 of the Cost of Living Adjustment Extension for Public Safety Personnel Emergency Amendment Act of 1994 (D.C. Act 10-324, August 18, 1994, 41 DCR 6002).

For temporary amendment of section, see § 511 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 806 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of section, see § 206(a) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Emergency Act of 1997 (D.C. Act 12-155, October 1, 1997, 44 DCR 5896), § 206(a) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Congressional Review Emergency Act of 1997 (D.C. Act 12-240, January 13, 1998, 45 DCR 531), and § 206(a) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan and Fiscal Year 1998 Revised Budget Support Act of 1997 Technical Amendments Emergency Act of 1998 (D.C. Act 12-351, May 20, 1998, 45 DCR 3673).

Section 207 of D.C. Act 12-155 provides for the application of the act.

For temporary amendment of section, see § 2(b) of the Police Officers, Fire Fighters, and

Teachers Retirement Benefit Replacement Plan and Fiscal Year 1998 Revised Budget Support Act of 1997 Technical Amendments Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-432, August 6, 1998, 45 DCR 5920).

Legislative history of Law 10-135. — See note to § 4-605.

Legislative history of Law 11-52. — Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 12-58. — Law 12-58, the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Temporary Act of 1997," was introduced in Council and assigned Bill No. 12-383. The Bill was adopted on first and second readings on September 24, 1997, and October 7, 1998, respectively. Signed by the Mayor on October 22, 1997, it was assigned Act No. 12-189 and transmitted to both Houses of Congress for its review. D.C. Law 12-58 became effective on March 20, 1998.

Legislative history of Law 12-152. — Law 12-152, the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998," was introduced in Council and assigned Bill No. 12-386, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 7, 1998 and May 5, 1998, respectively. Signed by the Mayor on May 22, 1998, it was assigned Act No. 12-369 and transmitted to both Houses of Congress for its review. D.C. Law 12-152 became effective on September 18, 1998.

Application of Law 12-152. — Section 209 of D.C. Law 12-152 provided that the act shall apply as of October 1, 1997.

Full Funding of Pension Liability Retirement Amendment Reform Amendment Act of 1992. — Section 302 of D.C. Law 10-135 amends (b) and (c) to read as follows:

"(b) With respect to any annuity payable under §§ 4-607 to 4-630 which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Depart-

ment of the District of Columbia, or to a survivor of any such member, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

“(c)(1) If (in accordance with subsection (b) of this section) the Mayor determines in a year (beginning with 1997) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to —

“(A) In the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under subsection (b) of this section, adjusted to the nearest $\frac{1}{10}$ of 1 per centum; or

“(B) In the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of —

“(i) One-twelfth of the per centum change computed under subsection (b) of this section, multiplied by

“(ii) The number of months (not to exceed 12 months, counting any portion of a

month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest $\frac{1}{10}$ of 1 per centum.

“(2) On January 1, 1996 (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index published for December 1995 over the price index published for June 1995. If such per centum change indicates a rise in the price index, effective March 1, 1996 —

“(A) Each annuity having a commencing date on or before September 1, 1995, shall be increased by an amount equal to such per centum change, adjusted to the nearest $\frac{1}{10}$ of 1 per centum; and

“(B) Each annuity having a commencing date after September 1, 1995, and on or before March 1, 1996, shall be increased by a pro rata increase equal to the product or —

“(i) One-sixth of such per centum change, multiplied by

“(ii) The number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest $\frac{1}{10}$ of 1 per centum.”

As to application of and effective date of Law 10-135, see note to § 4-605.

§ 4-625. Application of § 4-624.

Subsections (b) and (c) of § 4-624 shall apply:

* * * * *

(2) To any increase in each annuity payable under the Policemen and Firemen's Retirement and Disability Act (D.C. Code, § 4-607 et seq.) having a commencing date after the effective date of § 4-624, except that in the case of members hired on or after the first day of the first pay period that begins after October 29, 1996, such increase shall not exceed 3% per annum, nor exceed one increase per annum. Except that, with respect to a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia hired after December 31, 1979, § 4-624(c-1) and (c-2) shall apply to all annuities payable under the Policemen and Firemen's Retirement and Disability Act. (1973 Ed., § 4-531.3; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 209(a)(2); Sept. 26, 1995, D.C. Law 11-52, § 806a, 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-218, § 3, 43 DCR 6172.)

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Effect of amendments. — D.C. Law 11-52 added the last sentence in (2).

D.C. Law 11-218 added the exception at the end of the first sentence in (2).

Emergency act amendments. — For temporary amendment of section, see § 512 of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 806a of the Omnibus Budget Support Congressional Review Emergency Act of

1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of section, see § 3 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 3 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

Legislative history of Law 10-135. — See note to § 4-605.

Legislative history of Law 11-52. — See note to § 4-624.

Legislative history of Law 11-218. — See note to § 4-607.

References in text.

The "Policemen and Firemen's Retirement

and Disability Act" referred to in paragraph (2), is the Act of September 1, 1916, 39 Stat. 718, ch. 433, § 12 which is codified as §§ 4-125, 4-160, 4-161, 4-607, 4-609, 4-610, 4-612, 4-613, 4-615, 4-616, 4-618 — 4-620, 4-622, 4-626, 4-627, 4-629, and 4-630.

Full Funding of Pension Liability Retirement Reform Amendment Act of 1994.

— Section 303(a) of D.C. Law 10-135 amended (2) by adding a second sentence that reads: "Except that, with respect to a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, § 4-624(b) and (c) shall apply to all annuities payable under the Policemen and Firemen's Retirement and Disability Act."

As to application and effective date of Law 10-135, see note to § 4-605.

§ 4-626. Funeral expenses.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614,

4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-627. Duties of Mayor; proceedings related thereto; disability retiree to report employment and undergo medical examination; overpayments.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614,

4-615, 4-618, 4-623, 4-624, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-628. Police and Firemen's Retirement and Relief Board.

(a)(1) In order to carry out his responsibilities under §§ 4-607 to 4-630 with respect to retirement and disability determinations, and related functions, the Mayor of the District of Columbia shall establish a Police and Firemen's Retirement and Relief Board (hereinafter in this section referred to as the "Board"). The Board shall be composed of:

(A) Members and alternatives appointed from among persons who are employees of the District of Columbia, one member and one or more alternates from each of the following: the District of Columbia Office of Personnel, Corporation Counsel, Department of Human Services, the Metropolitan Police Force, and the Fire and Emergency Medical Services Department; and

* * * * *

(2) The member, and one or more alternates, appointed to the Board from among employees of the Department of Human Services shall be medical officers. All appointments shall be made by the Mayor.

* * * * *

(Sept. 22, 1994, D.C. Law 10-174, § 2, 41 DCR 5171.)

Section references. — This section is referred to in §§ 1-624.1, 1-732, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Effect of amendments. — D.C. Law 10-174 rewrote (a)(1)(A); and, in the first sentence of (a)(2), substituted “1 or more alternates” for “alternate” and deleted “both” following “shall.”

Legislative history of Law 10-174. — L aw

10-174, the “Policemen and Firemen’s Retirement Relief Board Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-578, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-294 and transmitted to both Houses of Congress for its review. D.C. Law 10-174 became effective on September 22, 1994.

§ 4-629. Accrue ment and payment of annuities; persons who may accept payment; waiver; reduction.

* * * * *

(e) Notwithstanding any other provision of law, the salary of any annuitant who first becomes entitled to an annuity under §§ 4-607 to 4-630, after November 17, 1979, and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such annuitant’s annuity under §§ 4-607 to 4-630 and compensation for such employment is equal to the salary otherwise payable for the position held by such annuitant. The provisions of this subsection shall not apply to an annuitant employed by the District of Columbia government under the Retired Police Officer Redeployment Amendment Act of 1992. The provisions of this subsection shall not apply to an annuitant employed by the D.C. Public Schools under the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994. (Sept. 1, 1916, ch. 433, § 12(n); Aug. 21, 1957, 71 Stat. 398, Pub. L. 85-157, § 3; 1973 Ed., § 4-534; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 211, 212, 214; May 23, 1989, D.C. Law 8-3, § 3, 36 DCR 2373; Mar. 15, 1990, D.C. Law 8-95, § 3, 37 DCR 786; July 22, 1992, D.C. Law 9-132, § 3, 39 DCR 4058; Sept. 29, 1992, D.C. Law 9-163, § 3, 39 DCR 5705; July 23, 1993, D.C. Law 10-5, § 3, 40 DCR 3412; July 23, 1994, D.C. Law 10-136, § 4, 41 DCR 3006.)

Section references. — This section is referred to in §§ 1-612.3, 1-624.1, 1-711, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-630, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

Effect of amendments. — D.C. Law 10-136 added the last sentence in (e).

Temporary amendments of section.

Section 3 of D.C. Law 10-5 added the last sentence in (e).

Section 4 of D.C. Law 10-5 provided that “to the extent possible, the Board of Education shall install metal detectors in junior and senior high schools in accordance with the Board’s commitment in the fiscal year 1992 budget process.”

Section 5(b) of D.C. Law 10-5 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1993, whichever occurs first.

Section 2(b) of D.C. Law 12-204 provides that section 6(b) of the Retired Police Officer Redeployment Amendment Act of 1992, D.C. Law 9-163, is repealed.

Section 4(b) of D.C. Law 12-204 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments.

For temporary repeal of § 6(b) of D.C. Law 9-163, see § 3 of the Retired Police Officer Redeployment Emergency Amendment Act of 1998 (D.C. Act 12-440, September 3, 1998, 45 DCR 6513), § 2(b) of the Retired Police Officer Redeployment Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-507, November 10, 1998, 45 DCR 8144), § 2(b) of the Retired Police Officer Redeployment Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-596, January 20, 1999, 46 DCR 1140), and § 2(b) of the Retired Police Officer Redeployment Congressional Review Emergency Amendment Act of 1998 (D.C. Act 13-26, March 15, 1999, 46 DCR 2981).

Section 4 of D.C. Act 12-507 provides for the application of the act.

Section 4 of D.C. Act 12-596 provides for the application of the Act.

Section 4 of D.C. Act 13-26 provides for the application of the act.

Legislative history of Law 10-136. — See note to § 4-618.2.

Expiration of Law 9-163.

Section 2(b) of D.C. Law 12-253 provided that § 6(b) of D.C. Law 9-163 is repealed.

References in text. — The “Retired Police Officer Redeployment Amendment Act of 1992,” referred to in (e), is D.C. Law 9-163, effective September 29, 1992.

The “Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994” referred to in (e), is D.C. Law 10-136, effective July 23, 1994.

Application of Law 10-136. — See note to § 4-618.2.

§ 4-630. Delegation of functions by Mayor; promulgation of rules and regulations by Mayor.

Section references. — This section is referred to in §§ 1-624.1, 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614,

4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-631, 4-632, 4-633, 4-1104, 6-1403, and 40-812.

§ 4-631. Existing relief and rights preserved.

Section references. — This section is referred to in §§ 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615,

4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-632, 4-633, and 40-812.

§ 4-632. Appropriations authorized.

Section references. — This section is referred to in §§ 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615, 4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-633, and 40-812.

Cited in *Floyd v. District of Columbia*, 129 F.3d 152 (D.C. Cir. 1997).

§ 4-633. Eligibility for benefits under federal law.

Section references. — This section is referred to in §§ 4-314, 4-415, 4-603, 4-604, 4-605, 4-607, 4-609, 4-610, 4-612, 4-614, 4-615,

4-618, 4-623, 4-624, 4-627, 4-628, 4-629, 4-630, 4-631, 4-632, and 40-812.

§ 4-634. Rights and relief of widows and children of deceased former members.

Section references. — This section is referred to in § 40-812.

Emergency act amendments. — For temporary establishment of a District of Columbia Police Officers' and Firefighters' Defined Benefit Pension Program, see Title I, § 101-509 of the Police Officers', Firefighters' and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 43 DCR 4637).

For temporary addition of section, see Title III, § 103 of the Police Officers', Firefighters' and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 43 DCR 4637).

Section 101 of Title IV of D.C. Act 11-369 provided for the application of the act.

Section 5 of D.C. Law 11-218 repealed D.C. Act 11-369.

For temporary repeal of the Police Officers', Fire Fighters', and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 41 DCR 4637), see § 5 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 5 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment

Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

CHAPTER 7. AWARDS FOR MERITORIOUS SERVICE.

Sec.
4-702. [Repealed].

§ 4-702. Committee to make awards.

Repealed.

(Mar. 4, 1929, 45 Stat. 1556, ch. 696, § 2; 1973 Ed., § 4-702; June 29, 1984, D.C. Law 5-94, § 2(b), 31 DCR 2549; Apr. 29, 1998, D.C. Law 12-86, § 401(e), 45 DCR 1172.)

Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

CHAPTER 9. CIVILIAN COMPLAINT REVIEW BOARD.

Sec.
4-901 to 4-910. [Repealed].

§ 4-901. Established; purpose; authority to act.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 2, 27 DCR 5127; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Emergency act amendments. — For temporary repeal of chapter upon the effective date of the Omnibus Budget Support Act of 1995, see § 503(a) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 803(a) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Legislative history of Law 11-52. — Law 11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

Effective date of repeal of §§ 4-901 to

4-910. — Section 803(a) of D.C. Law 11-52 repealed §§ 4-901 to 4-910 on the effective date of the Omnibus Budget Support Act of 1995. The Omnibus Budget Support Act of 1995, D.C. Law 11-52, was effective September 26, 1995.

Transfer of pending cases. — For temporary transfer of all cases pending with the Civilian Complaint Review Board to the Internal Affairs Division of the Metropolitan Police Department, see § 503(b) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 803(b) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 803(b) of D.C. Law 11-52 provided that all cases pending with the Civilian Complaint Review Board on the effective date of the Omnibus Budget Support Act of 1995 shall be transferred to, and adjudicated according to the

procedures of, the Internal Affairs Division of the Metropolitan Police Department.

Delegation of Authority — Secretary of

the District of Columbia. — See Mayor's Order 95-26, January 27, 1995.

§ 4-902. Recommendations.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 3, 27 DCR 5127; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

§ 4-903. Adjudication of complaints; rules and regulations; action by Chief of Police; complaints referred to United States Attorney; records.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 4, 27 DCR 5127; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

§ 4-904. Composition; term of office; quorum; removal for cause.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 5, 27 DCR 5127; Mar. 13, 1993, D.C. Law 9-179, § 2(a), 39 DCR 8075; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

§ 4-905. Hearings.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 6, 27 DCR 5127; Mar. 13, 1993, D.C. Law 9-179, § 2(b), 39 DCR 8075; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

§ 4-906. Liability of Board members.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 7, 27 DCR 5127; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

§ 4-907. Executive Director; staff.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 8, 27 DCR 5127; Mar. 13, 1993, D.C. Law 9-179, § 2(c), 39 DCR 8075; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

§ 4-908. Funding.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 9, 27 DCR 5127; Mar. 13, 1993, D.C. Law 9-179, § 2(d), 39 DCR 8075; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

§ 4-909. Miscellaneous provisions.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 10(a)-(e), (g), (h), 27 DCR 5127; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

§ 4-910. Construction of chapter.

Repealed.

(Mar. 5, 1981, D.C. Law 3-158, § 11, 27 DCR 5127; Sept. 26, 1995, D.C. Law 11-52, § 803(a), 42 DCR 3684.)

Legislative history of Law 11-52. — See note to § 4-901.

Effective date of repeal of §§ 4-901 to 4-910. — See note to § 4-901.

CHAPTER 9A. OFFICE OF CITIZEN COMPLAINT REVIEW.

Sec.

4-911. Findings.

4-912. Purpose.

4-913. Definitions.

4-914. Citizen Complaint Review Board.

4-915. Office of Citizen Complaint Review establishment; appointment of Executive Director.

4-916. Duties of the Executive Director.

Sec.

4-917. Authority of the Office and processing of complaint.

4-918. Dismissal of complaint.

4-919. Referral of complaint to the United States Attorney.

4-920. Conciliation and mediation.

4-921. Complaint investigation, findings, and determination.

Sec. 4-922. Action by the Metropolitan Police Department.	Sec. 4-924. Metropolitan Police Department disciplinary authority.
4-923. Effect of order dismissing complaint.	4-925. Funding and compensation.

§ 4-911. Findings.

The Council of the District of Columbia finds that:

(1) The District of Columbia delegated to the Metropolitan Police Department ("MPD") the vital task of protecting the safety of persons and property in the District of Columbia. This task is difficult, dangerous, and sensitive.

(2) Most members of the MPD perform their duties with diligence, devotion, and sensitivity. From time to time, however, some members of the MPD do not act in accordance with the high standards of conduct that the people of the District of Columbia have a right to expect. On other occasions, honest misunderstandings arise between police officers and members of the public with whom they interact.

(3) Because police officers have been given extraordinary powers, it is essential that there be an effective and efficient system for reviewing their exercise of police powers. Further, it is essential that both police officers and members of the public have confidence that this system of review is fair and unbiased. Members of the public must be aware of this system and have easy access to its processes.

(4) The need for independent review of police activities is recognized across the nation. Effective independent review enhances communication and mutual understanding between the police and the community, reduces community tensions, deters police misconduct, and increases the public's confidence in their police force.

(5) Some complaints against police officers involve serious charges requiring formal disciplinary proceedings. Many, though, can be resolved through conciliation, mediation, or other dispute resolution techniques. An effective and efficient review mechanism should encompass a variety of procedures for dealing with different complaints in an appropriate manner. (Mar. 26, 1999, D.C. Law 12-208, § 2, 45 DCR 8107.)

Legislative history of Law 12-208. — Law 12-208, the "Office of Citizen Complaint Review Establishment Act of 1998," was introduced in Council and assigned Bill No. 12-521, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second read-

ings on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 16, 1998, it was assigned Act No. 12-495 and transmitted to both Houses of Congress for its review. D.C. Law 12-208 became effective on March 26, 1999.

§ 4-912. Purpose.

The purpose of this chapter is to establish an effective, efficient, and fair system of independent review of citizen complaints against police officers in the District of Columbia, which will:

- (1) Be visible to and easily accessible to the public;
- (2) Investigate promptly and thoroughly claims of police misconduct;
- (3) Encourage the mutually agreeable resolution of complaints through conciliation and mediation where appropriate;
- (4) Provide adequate due process protection to officers accused of misconduct;

- (5) Provide fair and speedy determination of cases that cannot be resolved through conciliation or mediation;
- (6) Render just determinations;
- (7) Foster increased communication and understanding and reduce tension between the police and the public; and
- (8) Improve the public safety and welfare of all persons in the District of Columbia. (Mar. 26, 1999, D.C. Law 12-208, § 3, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-913. Definitions.

For purposes of this chapter, the term:

- (1) “Board” means the Citizen Complaint Review Board.
- (2) “Complaint examiner” means the person designated by the Executive Director to determine the merits of a complaint.
- (3) “Executive Director” means the head of the Office of Citizen Complaint Review.
- (4) “Office” means the Office of Citizen Complaint Review. (Mar 26, 1999, D.C. Law 12-208, § 4, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-914. Citizen Complaint Review Board.

(a) There is established a Citizen Complaint Review Board (“Board”). The Board shall be composed of 5 members, one of whom shall be a member of the MPD, and 4 of whom shall have no current affiliation with any law enforcement agency. All members of the Board shall be residents of the District of Columbia. The members of the Board shall be appointed by the Mayor, subject to confirmation by the Council. The Mayor shall submit a nomination to the Council for a 90-day period of review, excluding days of Council recess. If the Council does not approve the nomination by resolution within this 90-day review period, the nomination shall be deemed disapproved.

(b) Board members first appointed after March 26, 1999 shall serve as follows: 2 shall serve for a 3-year term; 2 shall serve for a 2-year term; and one shall serve for a one-year term. Thereafter, Board members shall serve for a term of 3 years from the date of appointment to a full term or until a successor has been appointed. All board members shall serve without compensation. A Board member may be reappointed. The Mayor shall designate the chairperson of the Board, and may remove a member of the Board from office for cause. A person appointed to fill a vacancy on the Board occurring prior to the expiration of a term shall serve for the remainder of the term or until a successor has been appointed.

(c) A quorum for the transaction of business shall be 3 members of the Board.

(d) The Board shall conduct periodic reviews of the citizen complaint review process, and shall make recommendations, where appropriate, to the Mayor, the Council, the Financial Responsibility and Management Assistance Author-

ity, and the Chief of the Metropolitan Police Department ("Police Chief") concerning the status and the improvement of the citizen complaint process. The Board shall, where appropriate, make recommendations to the above-named entities concerning those elements of management of the MPD affecting the incidence of police misconduct, such as the recruitment, training, evaluation, discipline, and supervision of police officers.

(e) Within 60 days of the end of each fiscal year, the Board shall transmit to the entities named in subsection (d) of this section an annual report of the operations of the Board and the Office of Citizen Complaint Review.

(f) The Board is authorized to apply for and receive grants to fund its program activities in accordance with laws and regulations relating to grant management. (Mar. 26, 1999, D.C. Law 12-208, § 5, 45 DCR 8107; _____, 1999, D.C. Law 12- (Act 12-622), § 4(e), 45 DCR 8107.)

Section references. — This section is referred to in § 1-633.7.

Effect of amendments. — D.C. Law 12-(Act 12-622) rewrote (a).

Emergency act amendments. — For temporary amendment of section, see § 4(e) of the Confirmation Emergency Amendment Act of 1999 (D.C. Act 13-25, March 15, 1999, 46 DCR 2971).

Section 6 of D.C. Act 13-25 provides for the application of the act.

Legislative history of Law 12- (D.C. Act 12-622). — Law 12- (D.C. Act 12-622), the "Confirmation Amendment Act of 1998," was

introduced in Council and assigned Bill No. _____, which was referred to the Committee on _____. The Bill was adopted on first and second readings on _____, and _____, respectively. Signed by the Mayor on _____, it was assigned Act No. 12-622 and transmitted to both Houses of Congress for its review. D.C. Law 12- (D.C. Act 12-622) became effective on _____.

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-915. Office of Citizen Complaint Review establishment; appointment of Executive Director.

(a) There is established an Office of Citizen Complaint Review ("Office").

(b) The Office shall be headed by an Executive Director. The Executive Director shall be an attorney who is an active member in good standing of the District of Columbia Bar. The Board shall appoint the Executive Director to serve for a term of 3 years, or until a successor is appointed. An Executive Director may be reappointed. The Board may remove the Executive Director from office for cause. The Executive Director shall receive such compensation as is established by the Board. (Mar. 26, 1999, D.C. Law 12-208, § 6, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-916. Duties of the Executive Director.

(a) The Executive Director shall employ qualified persons or utilize the services of qualified volunteers, as necessary, to perform the work of the Office, including the investigation of complaints. The Executive Director may employ persons on a full-time or part-time basis, or retain the services of contractors for the purpose of resolving a particular case or cases, as may be determined by the Executive Director, except that complaint investigators may not be persons

currently or formerly employed by the MPD. Chapter 6 of Title 1 shall apply to the Executive Director and other employees of the Office.

(b) The Executive Director shall supervise all employees and volunteers of the Office, and shall ensure that all rules, regulations, and orders are carried out properly, and that all records of the Office are maintained properly.

(c) Subject to approval of the Board, the Executive Director shall establish a pool of qualified persons who shall be assigned by the Executive Director to carry out the mediation and complaint determination functions set forth in this chapter. In selecting a person to be a member of this pool, the Executive Director shall take into consideration each person's education, work experience, competence to perform the functions required of a dispute mediator or complaint hearing examiner, and general reputation for competence, impartiality, and integrity in the discharge of his responsibilities. No member of the pool shall be a current or former employee of the MPD. For their services, the members of this pool shall be entitled to such compensation as the Executive Director, with the approval of the Board, shall determine, provided that the compensation shall be on a per-case basis, not a per-hour, basis.

(d) The Board shall have the authority to promulgate rules to implement the provisions of this chapter. Such rules shall be promulgated in accordance with subchapter I of Chapter 15 of Title 1, and shall be subject to review and approval by the Board before becoming effective. (Mar. 26, 1999, D.C. Law 12-208, § 7, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-917. Authority of the Office and processing of complaint.

(a) The Office shall have the authority to receive and to dismiss, conciliate, mediate, or adjudicate a citizen complaint against a member or members of the MPD that alleges abuse or misuse of police powers by such member or members, including:

- (1) Harassment;
- (2) Use of unnecessary or excessive force;
- (3) Use of language or conduct that is insulting, demeaning, or humiliating;
- (4) Discriminatory treatment based upon a person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business; or

(5) Retaliation against a person for filing a complaint pursuant to this chapter.

(b) If a complaint alleges misconduct that is not within the authority of the Office to review, the Executive Director shall refer the allegation to the Police Chief for further processing by the MPD, as appropriate.

(c) Any individual having personal knowledge of alleged police misconduct may file a complaint with the Office on behalf of a victim.

(d) To be timely, a complaint must be received by the Office within 45 days from the date of the incident that is the subject of the complaint. The Executive Director may extend the deadline for good cause.

(e) Each complaint shall be reduced to writing and signed by the complainant.

(f) Complaint forms shall conclude with the following words: "I hereby certify that to the best of my knowledge, and under penalty of perjury, the statements made herein are true."

(g) The Executive Director shall screen each complaint and may request additional information from the complainant. Within 7 working days of the receipt of the complaint, or within 7 working days of the receipt of additional information requested from the complainant, the Executive Director shall take one of the following actions:

(1) Dismiss the complaint, with the concurrence of one member of the Board;

(2) Refer the complaint to the United States Attorney for the District of Columbia for possible criminal prosecution;

(3) Attempt to conciliate the complaint;

(4) Refer the complaint to mediation; or

(5) Refer the complaint for investigation.

(h) The Executive Director shall notify in writing the complainant and the subject police officer or officers of the action taken under subsection (g) of this section. If the complaint is dismissed, the notice shall be accompanied by a brief statement of the reasons for the dismissal, and the Executive Director shall notify the complainant that the complaint may be brought to the attention of the Police Chief who may direct that the complaint be investigated and that appropriate action be taken.

(i) For purposes of § 1-617.1, the receipt by the Office of an oral or written complaint shall not constitute knowledge or cause to know of acts, occurrences, or allegations contained in such complaint. For purposes of § 1-617.1, the MPD shall be deemed to know or have cause to know of the acts, occurrences, or allegations in a complaint received by the Office at the time the MPD receives written notice from the Office that an allegation in a complaint processed by the Office has been sustained. (Mar. 26, 1999, D.C. Law 12-208, § 8, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-918. Dismissal of complaint.

A complaint may be dismissed on the following grounds:

(1) The complaint is deemed to lack merit;

(2) The complainant refuses to cooperate with the investigation; or

(3) If, after the Executive Director refers a complaint for mediation, the complainant willfully fails to participate in good faith in the mediation process. (Mar. 26, 1999, D.C. Law 12-208, § 9, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-919. Referral of complaint to the United States Attorney.

(a) When, in the determination of the Executive Director, there is reason to believe that the misconduct alleged in a complaint or disclosed by an investigation of the complaint may be criminal in nature, the Executive Director shall refer the matter to the United States Attorney for the District of Columbia for possible criminal prosecution. The referral shall be accompanied by a copy of all of the Office's files relevant to the matter being referred.

(b) The Executive Director shall give written notification of such referral to the Police Chief, the complainant, and the subject officer or officers. The receipt of notification by the Police Chief that a matter has been referred to the United States Attorney for the District of Columbia shall not constitute knowledge or cause to know of acts, occurrences, or allegations contained in such referral for purposes of § 1-617.1.

(c) The Executive Director shall maintain a record of each referral, and ascertain and record the disposition of each matter referred to the United States Attorney.

(d) If the United States Attorney declines in writing to prosecute, the Office shall resume its processing of the complaint, and thereafter the Executive Director may dismiss the complaint in accordance with §§ 4-917 and 4-918, conciliate the complaint, refer the complaint to mediation, or refer the complaint for investigation, as appropriate. (Mar. 26, 1999, D.C. Law 12-208, § 10, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-920. Conciliation and mediation.

(a) If deemed appropriate by the Executive Director, and if the parties agree to participate in a conciliation process, the Executive Director may attempt to resolve a complaint by conciliation.

(b)(1) The conciliation of a complaint shall be evidenced by a written agreement signed by the Executive Director and the parties which may provide for oral apologies or assurances, written undertakings, or any other terms satisfactory to the parties. No oral or written statements made in conciliation proceedings may be used as a basis for any discipline or recommended discipline against a subject police officer or officers or in any civil or criminal litigation.

(2) The parties may agree in writing that a written conciliation agreement shall not be a public document and shall not be available to the public, as would normally be required pursuant to subchapter II of Chapter 15 of Title 1.

(c) If conciliation efforts are unsuccessful, the Executive Director may dismiss the complaint in accordance with §§ 4-917 and 4-918, refer the complaint to mediation, or refer the complaint for investigation.

(d) If the Executive Director refers the complaint to mediation, the Executive Director shall assign the matter to a member of the pool who is experienced in mediation, shall schedule an initial mediation session for the earliest convenient time, and shall notify the complainant and subject police

officer or officers in writing of the date, time, and location of the initial mediation session.

(e) The complainant, the subject police officer or officers, and the mediator shall be present at mediation sessions. Alternatively, the mediator may meet individually with the complainant and the subject police officer or officers. Except as provided in this subsection, no other person may be present or participate in mediation sessions, except as determined by the mediator to be required for a fair and expeditious mediation of the complaint. An interpreter shall be present when necessary for effective communication and shall be provided by the Office when timely requested by a party. When the complainant is under 18 years of age or is an adult who, because of mental, physical, or emotional condition or disability, cannot participate competently in mediation, a parent, guardian, conservator, or other responsible adult must be present at mediation sessions.

(f) The mediation process shall continue as long as the mediator believes it may result in the resolution of the complaint, except that it may not extend beyond 30 days from the date of the initial mediation session without the approval of the Executive Director. No oral or written statement made during the mediation process may be used by the Office or the MPD as a basis for any discipline or recommended discipline of the subject police officer or officers, nor in any civil or criminal litigation, except as otherwise provided by the rules of court or the rules of evidence.

(g) If mediation is successful, the mediator and the parties shall sign a mediation agreement resolving the complaint. The Executive Director shall place a copy of the mediation agreement in the complaint file and shall forward a copy of the mediation agreement to the Police Chief. The Police Chief shall monitor the conduct of the police officer or officers to determine that the police officer complies with the terms of an agreement reached after mediation.

(h) The parties may agree in writing that a mediation agreement shall not be a public document and shall not be available to the public, as would normally be required pursuant to subchapter II of Chapter 15 of Title 1.

(i) If mediation efforts are unsuccessful, the Executive Director may dismiss the complaint in accordance with §§ 4-917 and 4-918, may refer the complaint for investigation, or may refer the complaint for adjudication if the Executive Director determines that further investigation is unnecessary.

(j) If, after the Executive Director refers a complaint to mediation, the complainant willfully fails to participate in good faith in the mediation process, the Executive Director may dismiss the complaint in accordance with §§ 4-917 and 4-918, may refer the complaint for investigation, or may refer the complaint to a complaint examiner for adjudication of the merits of the complaint if the Executive Director determines that further investigation is unnecessary.

(k) If, after the Executive Director refers a complaint to mediation, any police officer subject to the complaint refuses to participate in the mediation process in good faith, such refusal or failure shall constitute cause for discipline by the Police Chief. The Police Chief shall cause appropriate disciplinary action to be instituted against the police officer for such a violation and shall notify the Executive Director of the outcome of such action. In the event that the subject police officer refuses to participate in the mediation

process or fails to participate in the mediation process in good faith, the Executive Director shall refer the complaint for investigation, or may refer the complaint for adjudication if further investigation is deemed unnecessary. (Mar. 26, 1999, D.C. Law 12-208, § 11, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-921. Complaint investigation, findings, and determination.

(a) If the Executive Director refers a complaint for investigation, the Executive Director shall assign an investigator to investigate the complaint.

(b) If the complainant refuses to cooperate in the investigation, the Executive Director may dismiss the complaint in accordance with §§ 4-917 and 4-918.

(c) The Executive Director is authorized to cause the issuance of subpoenas under the seal of the Superior Court of the District of Columbia compelling the complainant, the subject officer or officers, witnesses, and other persons to respond to written or oral questions, or to produce relevant documents or other evidence as may be necessary for the proper investigation and determination of a complaint. The service of any such subpoena on a subject police officer or any other employee of the MPD may be effected by service on the Police Chief or on his designee, who shall deliver the subpoena to the subject police officer or employee. The Police Chief or his designee shall transmit the return of service to the Office. Statements made pursuant to a subpoena shall be given under oath or affirmation.

(d) Employees of the MPD shall cooperate fully with the Office in the investigation and adjudication of a complaint. Upon notification by the Executive Director that an MPD employee has not cooperated as requested, the Police Chief shall cause appropriate disciplinary action to be instituted against the employee, and shall notify the Executive Director of the outcome of such action. An employee of the MPD shall not retaliate, directly or indirectly, against a person who files a complaint under this chapter. If a complaint of retaliation is sustained under this chapter, the subject police officer or employee shall be subject to appropriate penalty, including dismissal. Such disciplinary action shall not be taken with respect to an employee's invocation of the Fifth Amendment privilege against self-incrimination.

(e) When the investigator completes the investigation, the investigator shall summarize the results of the investigation in an investigative report which, along with the investigative file, shall be transmitted to the Executive Director. After reviewing the investigative report and the investigative file, the Executive Director may dismiss the complaint in accordance with §§ 4-917 and 4-918, may direct the investigator to undertake additional investigation, or may refer the complaint to a complaint examiner designated by the Executive Director to determine the merits of the complaint.

(f) Upon receiving a complaint, a complaint examiner may request that the Executive Director order additional investigation, may proceed to determine the merits of the complaint in a fair and expeditious manner based on the investigative report and the investigative file, or may hold an evidentiary

hearing. If the complaint examiner determines that an evidentiary hearing is necessary to determine fairly the merits of a complaint, the testimony at such hearing shall be under oath or affirmation, and the parties may be represented by counsel. A complaint examiner shall have the authority to administer an oath or affirmation to a witness.

(g) If, after the Executive Director assigns a complaint to a complaint examiner, the parties indicate to the complaint examiner that they are willing to resolve the complaint through conciliation or mediation, the complaint examiner may act as a conciliator or mediator. If a party already is represented by counsel, that party may continue to be represented by counsel during this conciliation or mediation process. If one party is represented by counsel and the other party is not so represented, the complaint examiner shall, upon request, give the unrepresented party a reasonable time to obtain counsel before commencing the mediation or conciliation process. Any resulting written conciliation or mediation agreement may be confidential as provided in § 4-920(h), and neither any such agreement nor any oral nor written statement made by a party during the course of the conciliation or mediation process may be used as a basis for any discipline or recommended discipline of the subject police officer or officers or in any civil or criminal litigation, except as otherwise provided by the rules of court or the rules of evidence.

(h) Upon review of the investigative file and the evidence adduced at any evidentiary hearing, and in the absence of the resolution of the complaint by conciliation or mediation, the complaint examiner shall make written findings of fact regarding all material issues of fact, and shall determine whether the facts found sustain or do not sustain each allegation of misconduct. In making that determination, the complaint examiner may consider any MPD regulation, policy, or order that prescribes standards of conduct for police officers. For purposes of this chapter, these written findings of fact and determinations by the complaint examiner (collectively, the “merits determination”) may not be rejected unless they clearly misapprehend the record before the complaint examiner and are not supported by substantial, reliable, and probative evidence in that record.

(i) If the complaint examiner determines that one or more allegations in the complaint is sustained, the Executive Director shall transmit the entire complaint file, including the merits determination of the complaint examiner, to the Police Chief for appropriate action. If the complaint examiner determines that no allegation in the complaint is sustained, the Executive Director shall dismiss the complaint and notify the parties and the Police Chief in writing of such dismissal with a copy of the merits determination. (Mar. 26, 1999, D.C. Law 12-208, § 12, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-922. Action by the Metropolitan Police Department.

(a) Upon receipt of a complaint file in which one or more allegations in a complaint has been sustained, the Police Chief shall cause the file to be reviewed within 5 working days after receiving the complaint file. This review shall not be conducted by persons from the same organizational unit as the

subject police officer or officers. All persons conducting the review shall be senior in grade or rank to the subject police officer or officers.

(b) The review of the complaint file shall include a review of the personnel file of the subject officer or officers, including any record of prior misconduct by the subject police officer or officers. Within 15 working days after receiving the complaint file from the Police Chief, the reviewing officers shall make a written recommendation, with supporting reasons, to the Police Chief regarding an appropriate penalty from the Table of Penalties Guide in General Order 1202.1 (Disciplinary Procedures and Processes). This recommendation may include a proposal for any additional action by the Police Chief not inconsistent with the intent and purpose of the citizen complaint review process.

(c) The review may include a proposal that the Police Chief return the merits determination to the Executive Director for review by a final review panel as set forth in subsection (g) of this section, if those charged with the review conclude, with supporting reasons, that, insofar as it sustains one or more allegations in the complaint, the merits determination clearly misapprehends the record before the complaint examiner and is not supported by substantial, reliable, and probative evidence in that record. The staff recommendation may not propose the supplementation of the evidentiary record before the complaint examiner.

(d) Within 5 working days after receiving the staff recommendation, the Police Chief shall notify the complainant and the subject police officer or officers in writing of the staff recommendation, and shall afford the complainant and the subject police officer or officers an opportunity to file with the Police Chief, within a reasonable time period set by the Police Chief, a written response to the staff recommendation. The Police Chief shall give full consideration to the written responses received from the complainant and the subject police officer or officers before taking final action with regard to the complaint.

(e) Within 15 working days after receiving the written responses of the complainant and the subject officer or officers, or within 15 working days of the deadline set for receipt of such responses, whichever is earlier, the Police Chief shall issue a decision as to the imposition of discipline upon the subject police officer or officers. The decision of the Police Chief shall be in writing and shall set forth a concise statement of the reasons therefor. The Police Chief may not reject the merits determination, in whole or in part, unless the Police Chief concludes, with supporting reasons, that the merits determination clearly misapprehends the record before the complaint examiner and is not supported by substantial, reliable, and probative evidence in the record before the complaint examiner. The Police Chief may not supplement the evidentiary record.

(f) The Police Chief shall notify the Executive Director, the complainant, and the subject police officer or officers in writing of the action taken by the Police Chief, and shall include in such notice a copy of the decision.

(g) The decision of the Police Chief shall be a final decision with no further right of administrative review, other than as provided in § 4-924(f), except in the following circumstances:

(1) The Police Chief may reopen any closed matter in the interests of fairness and justice; or

(2) If the Police Chief concludes on the basis of a staff recommendation under subsection (c) of this section, or otherwise, that insofar as it sustains one

or more allegations of the complaint, the merits determination clearly misapprehends the record before the complaint examiner, and is not supported by substantial, reliable, and probative evidence in the record, the Police Chief shall return the merits determination to the Executive Director for review by a final review panel comprised of 3 complaint examiners (not including the complaint examiner who prepared the merits determination) selected by the Executive Director. Upon review of the record, and without taking any additional evidence, the final review panel shall issue a written decision, with supporting reasons, regarding the correctness of the merits determination to the extent that the Police Chief has concluded that it erroneously sustained one or more allegations of the complaint. The final review panel shall uphold the merits determination as to any allegation of the complaint that the determination was sustained, unless the panel concludes that the determination regarding the allegation clearly misapprehends the record before the original complaint examiner and is not supported by substantial, reliable, and probative evidence in that record. A copy of the decision of the final review panel shall be transmitted to the Executive Director, the complainant, the subject police officer or officers, and the Police Chief.

(h) If the final review panel concludes that the merits determination sustaining one or more allegations of the complaint should be reversed in its entirety, the Executive Director shall dismiss the complaint, and notify the parties and the Police Chief in writing of such dismissal. If the final review panel concludes that the merits determination should be upheld as to any allegation of the complaint that the determination has sustained, the Police Chief, within 15 working days of receipt of the panel's decision, shall issue a supplemental decision as to the imposition of discipline upon the subject officer or officers that is fully consistent with the panel's decision. The supplemental decision of the Police Chief shall be in writing and shall set forth a concise statement of the reasons therefor. The Police Chief shall notify the Executive Director, the complainant, and the subject police officer or officers in writing of the action taken by the Police Chief, and shall include in such notice a copy of the supplemental decision. The supplemental decision of the Police Chief shall be a final decision with no further right of administrative review, other than as provided in subsection (g) of this section and § 4-924(f). (Mar 26, 1999, D.C. Law 12-208, § 13, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-923. Effect of order dismissing complaint.

(a) An order of the Executive Director dismissing a complaint shall be a final resolution of the complaint by the Office. Such order shall be neither appealable to nor reviewable by any other entity, administrative or judicial.

(b) An order of the Executive Director dismissing a complaint for any reason, including a dismissal based upon an adjudication of the merits of a complaint by a complaint examiner and a decision of a final review panel that reverses a merits determination of a complaint examiner, shall not bar the complainant from seeking any judicial relief that may be available pursuant to

the statutory and common law of the District of Columbia. (Mar. 26, 1999, D.C. Law 12-208, § 14, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-924. Metropolitan Police Department disciplinary authority.

(a) The MPD shall have full authority, under the procedures established pursuant to § 4-118, to initiate disciplinary proceedings against an officer of the MPD with respect to a charge of misconduct within the scope of § 4-917 prior to the timely filing of a complaint with the Office.

(b) If the MPD has initiated disciplinary proceedings against an officer of the MPD for alleged misconduct, the subsequent timely filing with the Office of a complaint against the same officer or officers, alleging the same misconduct, shall not preclude the MPD from proceeding with its own disciplinary process. Nor shall the fact that the MPD has initiated disciplinary proceedings against a police officer for alleged misconduct preclude the Office from processing a complaint that was timely filed against the same officer and alleging the same misconduct, except that the Police Chief may not punish the same officer more than once for the same act or omission that constitutes misconduct.

(c) When the MPD has not initiated a disciplinary proceeding against a police officer prior to the timely filing of a complaint with the Office, the MPD shall not initiate a disciplinary proceeding against the subject police officer or officers with regard to misconduct alleged in such complaint until the Office disposes of the complaint.

(d) A merits determination by a complaint examiner, on the basis of an evidentiary hearing, that no allegation of misconduct in the complaint is sustained, as well as a decision of a final review panel that reverses in its entirety a merits determination that sustained one or more allegations of the complaint, precludes the MPD from imposing discipline on the subject police officer or officers with respect to any allegation of misconduct contained in the complaint.

(e) A merits determination by a complaint examiner, on the basis of an evidentiary hearing, or a later decision of a final review panel, if any, shall be binding on the subject police officer or officers and on the Police Chief in all subsequent proceedings as to all essential facts determined and all violations found.

(f) If the complaint examiner has not held an evidentiary hearing and the Police Chief imposes termination as a disciplinary action, the affected police officer shall be entitled to a post-termination administrative proceeding as provided by law. A police officer disciplined by the Police Chief, whether by termination or otherwise, shall be entitled to whatever administrative disciplinary proceeding is afforded under any applicable collective bargaining agreement. (Mar. 26, 1999, D.C. Law 12-208, § 15, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

§ 4-925. Funding and compensation.

(a) There are authorized such funds as may be necessary to support the Board and the Office.

(b) The establishment of the Board and the Office are dependent upon the availability of appropriated funds.

(c) Any entitlement to compensation under this chapter for services rendered shall be dependent upon the availability of appropriated funds to pay such compensation. (Mar. 26, 1999, D.C. Law 12-208, § 16, 45 DCR 8107.)

Legislative history of Law 12-208. — See note to § 4-911.

CHAPTER 11. MISCELLANEOUS PROVISIONS.

Subchapter I. General Provisions.

Sec.

4-1104. Basic workweek established; overtime; special assignments; court duty.

Subchapter I. General Provisions.

§ 4-1104. Basic workweek established; overtime; special assignments; court duty.

* * * * *

(h)(1) No premium pay provided by this section shall be paid to, and no compensatory time off is authorized for, an officer or member of the Metropolitan Police force; or of the Fire Department of the District of Columbia; or of the United States Park Police whose rate of basic compensation equals or exceeds the minimum scheduled rate of basic compensation provided for service step 1 in the salary class applicable to the Fire Chief and Chief of Police in §§ 4-406 to 4-420.

(2) In the case of an officer or member of the Metropolitan Police force; or of the Fire Department of the District of Columbia; or of the United States Park Police whose rate of basic compensation is less than the minimum scheduled rate of basic compensation provided for service step 1 in the salary class applicable to the Fire Chief and Chief of Police in §§ 4-406 to 4-420, such premium pay may be paid only to the extent that such payment would not cause his aggregate rate of compensation to exceed such minimum scheduled rate with respect to any pay period.

(3)(A) No premium pay provided by this section shall be paid to, and no compensatory time is authorized for, any officer or member of the United States Secret Service Uniformed Division whose rate of basic pay, combined with any applicable locality-based comparability payment, equals or exceeds the lesser of:

(i) One hundred-fifty percent of the minimum rate payable for grade GS-15 of the General Schedule (including any applicable locality-based comparability payment under section 5304 of title 5, United States Code or any

similar provision of law, and any applicable special rate of pay under section 5305 of title 5, United States Code or any similar provision of law); or

(ii) The rate of payable for level V of the Executive Schedule contained in subchapter II of chapter 3 of title 5, United States Code.

(B) In the case of any officer or member of the United States Secret Service Uniformed Division whose rate of basic pay, combined with any applicable locality-based comparability payment, is less than the lesser of—

(i) One hundred-fifty percent of the minimum rate payable for grade GS-15 of the General Schedule (including any applicable locality-based comparability payment under section 5304 of title 5, United States Code or any similar provision of law, and any applicable special rate of pay under section 5305 of title 5, United States Code or any similar provision of law); or

(ii) The rate payable for level V of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code, such premium pay may be paid only to the extent that such payment would not cause such officer or member's aggregate rate of compensation to exceed such lesser amount with respect to any pay period.

(i) Each authorizing official is authorized to promulgate such regulations and issue such orders as are necessary to carry out the intent and purpose of this section, and to delegate to a designated agent or agents any of the functions vested in the authorizing official by this section. (Aug. 15, 1950, 64 Stat. 447, ch. 715, § 1; Mar. 27, 1951, 65 Stat. 27, ch. 20, § 1; June 20, 1953, 67 Stat. 76, ch. 146, title IV, § 403; Aug. 4, 1955, 69 Stat. 491, ch. 549, § 1; Oct. 5, 1961, 75 Stat. 831, Pub. L. 87-399, § 3; Oct. 21, 1965, 79 Stat. 1013, Pub. L. 89-282, § 1; Aug. 29, 1972, 86 Stat. 639, Pub. L. 92-410, title I, § 113; 1973 Ed., § 4-904; Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Oct. 10, 1997, 111 Stat. 1285, Pub. L. 105-61, § 118(c).)

Effect of amendments. — Section 118(c) of Pub. L. 105-61, 111 Stat. 1285, in (h), substituted “an officer or member of the Metropolitan Police force; or of the Fire Department of the District of Columbia; or of the United States Park Police” for “any officer or member” throughout; inserted present (h)(3); and redesignated former (h)(3) as (i).

Effective date of Pub. L. 105-61. — Section 118(f) of Pub. L. 105-61, 111 Stat. 1272, provides that the provisions of § 118 shall become effective on the first day of the first pay period beginning after the date of enactment of the act. The act was approved on October 10, 1997.

Savings Provision. — Section 118(d) of Pub. L. 106-61, 111 Stat. 1285, provided that on the effective date of § 118, any existing special salary rates authorized for members of the United States Secret Service Uniformed Division under § 5305 of title 5, United States Code (or any previous similar provision of law) and any special rates of pay or special pay adjustments under section 403, 404, or 405 of the Federal Law Enforcement Pay Reform Act of 1990 applicable to members of the United States Secret Service Uniformed Division shall be rendered inapplicable.

TITLE 5. BUILDING RESTRICTIONS AND REGULATIONS.

CHAPTER 1. NATIONAL CAPITAL HOUSING AUTHORITY.

§ 5-102. National Capital Housing Authority — Agency of government; powers vested in Mayor.

Cross references. — As to transfer of personnel, property, and funds, see § 1-212.1.

CHAPTER 1A. D.C. HOUSING AUTHORITY.

- | Sec. | Sec. |
|--|---|
| 5-121. Definitions. | 5-128. Transfer of DPAH's Employees to the Authority. |
| 5-122. Establishment of the District of Columbia Housing Authority. | 5-128.1. District of Columbia Housing Authority Police Force. |
| 5-123. Dissolution of the Department of Public and Assisted Housing. | 5-129. Procurement. |
| 5-124. Board of Commissioners of the District of Columbia Housing Authority. | 5-130. Conflict of interest. |
| 5-125. Executive Director. | 5-131. Local law. |
| 5-126. [Repealed]. | 5-132. Tax exemption. |
| 5-127. Social services teams in public housing. | 5-133. Disposition of assets on dissolution. |

§ 5-121. Definitions.

For the purposes of this chapter, the term:

- (1) "Act" means the District of Columbia Housing Authority Act of 1994.
- (2) "Apprehension" means the act of seizing or arresting a suspect.
- (3) "Authority" means the District of Columbia Housing Authority.
- (4) "Board" means the Board of Commissioners of the District of Columbia Housing Authority.
- (5) "Book" means to enter an official charge against an arrested suspect on a police register.
- (6) "Commissioner" means a member of the Board of Commissioners of the District of Columbia Housing Authority.
- (7) "Council" means the Council of the District of Columbia.
- (8) "District of Columbia Housing Authority Police Force" means the duly constituted police department of the District of Columbia Housing Authority.
- (9) "DPAH" means the Department of Public and Assisted Housing.
- (10) "Execute" means the process or ability to carry out or perform all necessary formalities to effect or enforce the directions in a court order, court decree, or warrant.
- (11) "Executive Director" means the Executive Director of the District of Columbia Housing Authority.
- (12) "Hot or close pursuit" means the act of immediately chasing a suspect or individual with whom there is a reasonable belief that probable cause exists that a crime has been committed.

(13) "Housing Authority Community" means the area within 300 feet of a public housing complex or other real property owned or managed by the District of Columbia Housing Authority.

(14) "Housing properties" means any low-income housing as defined in the United States Housing Act of 1937, approved September 1, 1937 (50 Stat. 888; 42 U.S.C. § 1401 et seq.), the development or administration of which is assisted by the United States Department of Housing and Urban Development.

(15) "Mayor" means the Mayor of the District of Columbia.

(16) "Members of the District of Columbia Housing Authority Police Force" means those persons who are police officers employed by the District of Columbia Housing Authority.

(17) "Power of arrest" means the ability to seize an alleged or suspected offender to answer for a crime.

(18) "Resident council" or "resident councils" means all resident councils within the meaning of the United States Housing Act of 1937, approved September 1, 1937 (50 Stat. 888; 42 U.S.C. § 1401 et seq.), as amended, all related statutes, rules, regulations, and orders of the United States, and all related statutes, rules, regulations, and orders of the District of Columbia.

(19) "Tenant" or "tenants" means all persons lawfully residing under lease in all public housing properties within the District of Columbia.

(20) "Weapon" means an instrument or device for offensive or defensive combat, or anything used, or designed to be used, in destroying, defeating, threatening, or injuring a person. (Mar. 21, 1995, D.C. Law 10-243, § 3, 42 DCR 91; Mar. 20, 1998, D.C. Law 12-62, § 2(a), 44 DCR 7486.)

Effect of amendments. — D.C. Law 12-62 inserted present (2), (5), (8), (10), (12), (13), (16), (17), and (20); redesignated the remaining paragraphs accordingly; and reversed the order of present (6) and (7).

Temporary amendment of section. — Section 2(a) of D.C. Law 11-208 inserted present (2), (5), (8), (10), (12), (13), (16), (17), and (20); redesignated the remaining paragraphs accordingly; and reversed the order of present (6) and (7).

Section 4(b) of D.C. Law 11-208 provides that the act shall expire after 225 days of its having taken effect.

Section 2(a) of D.C. Law 12-272 amended (8), (12), (13), and (16) to read as follows:

"For the purposes of this chapter:

"(8) 'District of Columbia Housing Authority Police Department' means the duly constituted police department of the District of Columbia Housing Authority.

"(12) Repealed.

"(13) Repealed.

"(16) 'Members of the District of Columbia Housing Authority Police Department' means

those persons who are police officers employed by the District of Columbia Housing Authority."

Section 4(b) of D.C. Law 12-272 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the District of Columbia Housing Authority Police Emergency Amendment Act of 1996 (D.C. Act 11-357, August 8, 1996, 43 DCR 4628), § 2(a) of the District of Columbia Housing Authority Police Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-417, October 28, 1996, 43 DCR 6080), and § 2(a) of the District of Columbia Housing Authority Police Second Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-470, December 30, 1996, 44 DCR 184).

For temporary amendment of section, see § 2 of the District of Columbia Housing Authority Police Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-67, April 18, 1997, 44 DCR 2617).

Section 4 of D.C. Act 12-67 provides for the application of the act.

For temporary amendment of section, see § 2(a) of the Housing Authority Police Emergency Amendment Act of 1997 (D.C. Act 12-217, November 21, 1997, 44 DCR 7622).

Section 4 of D.C. Act 12-217 provided for application of the act.

For temporary amendment of section, see § 2(a) of the Housing Authority Police Congressional Recess Emergency Amendment Act of 1998 (D.C. Act 12-289, February 27, 1998, 45 DCR 1743).

Section 4 of D.C. Act 12-289 provided for the application of the act.

For temporary amendment of section, see § 2(a) of the Housing Authority Emergency Amendment Act of 1998 (D.C. Act 12-569, January 12, 1999, 45 DCR 887).

Legislative history of Law 10-243. — Law 10-243, the “District of Columbia Housing Authority Act of 1994,” was introduced in Council and assigned Bill No. 10-671, which was referred to the Committee on Housing. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-388 and transmitted to both Houses of Congress for its review. D.C. Law 10-243 became effective on March 21, 1995.

Legislative history of Law 11-208. — Law 11-208, the “District of Columbia Housing Authority Police Temporary Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-806. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on August 6, 1996, it was assigned Act No. 11-381 and transmitted to both Houses of Congress for its review. D.C. Law 11-208 became effective on April 9, 1997.

Legislative history of Law 12-62. — Law 12-62, the “Housing Authority Police Amendment Act of 1997,” was introduced in Council and assigned Bill No. 12-43, which was referred to the Committee on Consumer and Regulatory

Affairs. The Bill was adopted on first and second readings on October 21, 1997, and November 4, 1997, respectively. Signed by the Mayor on November 14, 1997, it was assigned Act No. 12-198 and transmitted to both Houses of Congress for its review. D.C. Law 12-62 became effective on March 20, 1998.

Legislative history of Law 12-272. — Law 12-272, the “Housing Authority Temporary Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-883. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 29, 1998, it was assigned Act No. 12-592 and transmitted to both Houses of Congress for its review. D.C. Law 12-272 became effective on April 27, 1999.

References in text. — The “United States Housing Act of 1937,” referred to in (14) and (18), is codified generally as 42 U.S.C. § 1401 et seq. Due to the revision of the United States Housing Act of 1937 by Pub. L. 93-383, § 201, 88 Stat. 653, Aug. 22, 1974, as amended, many provisions have been redesignated. See generally 42 U.S.C. § 1437 et seq.

The “Housing Authority Act of 1994,” referred to in (1), is D.C. Law 10-243.

Purpose of Law 10-243. — Section 2 of D.C. Law 10-243 provided that it is necessary and in the public interest to create an independent housing authority in the District of Columbia and to confer and vest in the authority all powers necessary or appropriate in order that it may engage in providing and maintaining quality public housing in the District of Columbia.

Cited in *In re G.G.*, App. D.C., 667 A.2d 1331 (1995); *Coleman v. District of Columbia*, 126 WLR 701 (Super. Ct. 1998).

§ 5-122. Establishment of the District of Columbia Housing Authority.

(a) There shall be established, as a corporate body which has a legal existence separate from the District government but which is an instrumentality of the District government, the District of Columbia Housing Authority.

(b) The Authority shall govern public housing and implement the United States Housing Act of 1937 (42 U.S.C. § 1401 et seq.), in the District of Columbia.

(c) The Authority shall be a public housing agency as that term is defined by the United States Housing Act of 1937 (42 U.S.C. § 1401 et seq.).

(d) The Authority shall be governed by a Board of Commissioners. The powers of the Authority shall be vested in the Board. (Mar. 21, 1995, D.C. Law 10-243, § 4, 42 DCR 91.)

Legislative history of Law 10-243. — See note to § 5-121.

References in text. — The “United States Housing Act of 1937,” referred to in (b), is codified generally as 42 U.S.C. § 1401 et seq. Due to the revision of the United States Housing

Act of 1937 by Pub. L. 93-383, § 201, 88 Stat. 653, Aug. 22, 1974, as amended, many provisions have been redesignated. See generally 42 U.S.C. § 1437 et seq.

Purpose of Law 10-243. — See note to § 5-121.

§ 5-123. Dissolution of the Department of Public and Assisted Housing.

(a) The Department of Public and Assisted Housing as established by Reorganization Plan No. 1 of 1987, effective December 15, 1987, D.C. Code, Vol. 1, at 335-338, shall be abolished on March 21, 1995.

(b) All of the functions related to the powers, duties, operations, and administration of the Department of Public and Assisted Housing shall be transferred to the District of Columbia Housing Authority within 180 days of March 21, 1995.

(c) All property, assets, records, obligations, and unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration of the Department of Public and Assisted Housing shall be transferred to the District of Columbia Housing Authority within 180 days of March 21, 1995.

(d) Until the Board of Commissioners is appointed and confirmed according to § 5-124, and the Executive Director is appointed and confirmed according to § 5-125, the Mayor shall continue to govern the Authority consistent with this chapter. (Mar. 21, 1995, D.C. Law 10-243, § 5, 42 DCR 91.)

Legislative history of Law 10-243. — See note to § 5-121.

Purpose of Law 10-243. — See note to § 5-121.

§ 5-124. Board of Commissioners of the District of Columbia Housing Authority.

(a) The Board shall consist of 7 Commissioners who shall be appointed by the Mayor with the consent of the Council. Of the members appointed, 1 shall be designated by the Mayor as the Chairperson of the Board for a term of 4 years. The first Board shall be appointed as hereinafter specified within 180 days of March 21, 1995.

(1) The terms of Commissioners shall be 4 years. Of the members first appointed, 2 shall hold office for one year; 2 shall hold office for 2 years; 2 shall hold office for 3 years; and one shall hold office for 4 years; and one of the initial appointees shall be designated by the Mayor as the Chairperson for a term of 2 years.

(2) Each vacancy in an unexpired term shall be filled within 60 days in the same manner as the appointment was made and shall be for the unexpired term.

(3) The Commissioners shall select a Vice Chairperson of the Board for a term of 4 years, and in the event of a vacancy in the office of the Vice Chairperson, to fill the vacancy for the remainder of the unexpired term.

(b) All Commissioners shall reside within the District of Columbia.

(c) Two Commissioners shall be residents of public housing or recipients of rent subsidies through a program administered by the Authority.

(1) One of the 2 Commissioners appointed pursuant to this subsection shall be a senior citizen over 62 years of age.

(2) Commissioners appointed pursuant to this subsection shall not be in violation of their contractual or rent obligations to the Authority.

(3) Subject to a final determination through the applicable process, an eviction or cessation of tenancy in public housing, or decertification for a rent

subsidy program, shall be cause for the removal of a Commissioner appointed pursuant to this subsection.

(d) One Commissioner shall be an official of organized labor.

(e) Except as provided in subsections (c) and (d) of this section, all other Commissioners shall have demonstrated experience in any of the following professional fields: banking, real estate development or management, architecture, engineering, or finance.

(f) Except as provided in subsection (d) of this section, no person shall be eligible for appointment to the Board who is an employee of the District of Columbia. No person shall be eligible for appointment to the Board who is a member of any District of Columbia board or commission including purely advisory ones, a spouse of a head of a department or agency of the District of Columbia, or a spouse of an elected official.

(g) Commissioners appointed pursuant to this section shall receive no compensation, but shall be entitled to a reimbursement of up to \$50 per meeting, not to exceed \$4,000 per annum, for travel and other necessary expenses.

(h) No Commissioner may be held personally liable for any action taken in the course of his or her official duties and responsibilities as set forth in this chapter.

(i) The Mayor may remove a Commissioner for official misconduct, neglect of duty, or incompetence, but only after the Commissioner shall have been given a copy of the charges and an opportunity to be heard in person or by counsel. The Mayor may suspend a Commissioner pending the determination of charges.

(j) In addition to those powers conferred elsewhere in this chapter, the Board is hereby charged with the duty to govern all affairs of the Authority and shall have all powers necessary or convenient to carry out the purposes of this chapter, including but not limited to the following:

(1) To establish public housing policies to ensure quality services to public housing residents;

(2) To coordinate professional expertise with administrative, financial, and public housing residents' needs;

(3) To acquire and prepare sites, lease and operate housing properties, and construct or provide for the construction, reconstruction, improvement, alteration, or repair of any such housing properties or any part thereof;

(4) To employ an Executive Director and other officers, agents, and employees as it requires; to adopt personnel rules and regulations; to determine the number and types of employee assigned to organizational units, work projects or tour of duty; and to determine the technology for performing its work or its internal security practice;

(5) To review and approve all contracts over \$250,000;

(6) To enter into contracts to achieve any or all of its purposes, and to receive contributions, gifts, grants, subsidies, and loans of money, property, labor, or other things of value from any source to be used for the purposes of this chapter and subject to conditions upon which the contributions, gifts, grants, subsidies, and loans are made;

(7) To sue and be sued, to have a seal and to alter same at will;

(8) To make rules and regulations necessary and proper for the effective administration of the Authority and for the fulfillment of the purposes of this chapter;

(9) To administer tenant elections for resident councils and for the Resident Council Advisory Board. Such elections shall be supervised by an independent expert in election monitoring, to be selected by the Board;

(10) To promulgate such rules and regulations, not inconsistent with this chapter, as may be necessary and proper for the administration of tenant elections for resident councils and for the Resident Council Advisory Board; and

(11) To perform such other functions as are needed to ensure the provision of quality services to public housing residents. (Mar. 21, 1995, D.C. Law 10-243, § 6, 42 DCR 91; Apr. 18, 1996, D.C. Law 11-110, § 11(a), 43 DCR 530.)

Section references. — This section is referred to in § 5-123.

Effect of amendments. — D.C. Law 11-110 substituted "subsection" for "section" in (c)(2) and (3).

Legislative history of Law 10-243. — See note to § 5-121.

Legislative history of Law 11-110. — Law 11-110, the "Technical Amendments Acts of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the

Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Purpose of Law 10-243. — See note to § 5-121.

Cited in *Coleman v. District of Columbia*, 126 WLR 701 (Super. Ct. 1998).

§ 5-125. Executive Director.

(a) An Executive Director shall be appointed by the Board subject to the advice and consent of the Council. The Executive Director shall be an employee of the Authority, but shall not be a member of the Board. The Executive Director shall receive compensation as shall be fixed by the Board.

(b) The Board may appoint the Executive Director for a term of up to 3 years, but shall require the Executive Director to achieve specific performance standards established by the Board.

(c) The Executive Director shall be the Secretary to the Board. He or she shall keep a record of the proceedings of the Board, and shall maintain and be the custodian of all books, documents, papers filed with the Board, minutes book or journal of the Board, and of its official seal.

(d) The Executive Director shall, subject to the direction and supervision of the Board:

(1) Administer, manage, and direct the affairs and activities of the Authority; and

(2) Supervise the staff of the Authority, make all final personnel decisions, and employ other assistants and employees as necessary in accordance with Chapter 6 of Title 1. (Mar. 21, 1995, D.C. Law 10-243, § 7, 42 DCR 91.)

Section references. — This section is referred to in § 5-123.

Legislative history of Law 10-243. — See note to § 5-121.

Purpose of Law 10-243. — See note to § 5-121.

§ 5-126. Resident Council Advisory Board and tenant election of members of resident councils and Resident Council Advisory Board.

Repealed.

(Mar. 21, 1995, D.C. Law 10-243, § 8, 42 DCR 91; Apr. 29, 1998, D.C. Law 12-86, § 401(f), 45 DCR 1172.)

Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

§ 5-127. Social services teams in public housing.

(a) The Authority shall, subject to availability of funds, establish social service teams at each public housing complex. The social service teams shall consist of, but be not limited to, the following:

- (1) Recreation and Education After School Coordinator;
- (2) Volunteer Coordinator;
- (3) Security, Rules, and Regulations Coordinator;
- (4) Employment and Training Coordinator;
- (5) Social Work and Health Services Coordinator; and
- (6) Tenant Advocacy Coordinator.

(b) Nothing in this section shall be construed to prohibit other District or United States government departments and agencies from providing social services to public housing residents. (Mar. 21, 1995, D.C. Law 10-243, § 9, 42 DCR 91.)

Legislative history of Law 10-243. — See note to § 5-121.

Purpose of Law 10-243. — See note to § 5-121.

§ 5-128. Transfer of DPAH’s Employees to the Authority.

All employees of the Department of Public and Assisted Housing shall be transferred to the Authority and continue to be employees of the District of Columbia government; except that all new employees hired after March 21, 1995, shall be classified as Excepted Service in accordance with Chapter 6 of Title 1. (Mar. 21, 1995, D.C. Law 10-243, § 10, 42 DCR 91.)

Legislative history of Law 10-243. — See note to § 5-121.

Purpose of Law 10-243. — See note to § 5-121.

Legislative history of Law 11-208. — See note to § 5-121.

§ 5-128.1. District of Columbia Housing Authority Police Force.

(a) The Authority is authorized to establish and maintain a regular police force, to be known as the District of Columbia Housing Authority Police Force (“DCHAPF”), to provide protection for its residents, employees, and properties

(real and personal). The DCHAPF shall have the powers and duties and shall be subject to the limitations set forth below. The DCHAPF shall be composed of both uniformed and plainclothes personnel. The DCHAPF shall be charged with the duty of enforcing the laws, ordinances, rules, and regulations of the District of Columbia in the Housing Authority Community, and the rules and regulations of the Housing Authority. The jurisdiction of the DCHAPF shall be limited to Housing Authority Communities owned, controlled, or operated by the Authority. This restriction shall not limit the power of the DCHAPF to make arrests on public space or private property for violations committed upon, to, or against Housing Authority Communities from within and outside such facilities while in hot or close pursuit, or to execute traffic citations or other criminal process, in accordance with subsection (d) of this section.

(b) The members of the DCHAPF shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the District of Columbia in which any Housing Authority Community is located. Nothing contained in this section shall either relieve any agency from its duty to provide police, fire, or other public safety service and protection, or limit, restrict, or interfere with the jurisdiction or performance of duties by existing police, fire, and other public safety agencies.

(c) Except as otherwise provided in this section, a member of the DCHAPF shall have the same powers, including the power of arrest, and shall be subject to the same limitations, including regulatory limitations, in the performance of his or her duties as a member of the duly constituted police force of the District of Columbia. Members of the DCHAPF are authorized to carry and use only such weapons, including handguns, as are issued by the Authority. Members of the DCHAPF are authorized to carry issued weapons both on and off duty in the District of Columbia and are subject to such additional limitations as are imposed on the duly constituted police force for the District of Columbia in accordance with § 22-3205.

(d) Members of the DCHAPF shall have the power to execute on property owned, controlled, or operated by the Authority any traffic citation or any criminal process issued by any court of the District of Columbia, or any felony, misdemeanor, or other offense against the laws, ordinances, rules, or regulations specified in subsection (a) of this section. With respect to offenses committed upon, to, or against Housing Authority Communities operated by the Authority, the DCHAPF shall have the power to execute criminal process within the Authority's properties.

(e) Upon the apprehension or arrest of any person by a member of the DCHAPF, the officer, as required by the laws of the District of Columbia, shall either issue a summons or a citation against the person, book the person, or deliver the person to the duly constituted police or judicial officer of the District of Columbia for disposition as required by law.

(f)(1) The Authority shall have the power to adopt rules and regulations and to establish fines for the safe, convenient, and orderly use of the properties owned, controlled, or operated by the Authority, including the protection of the Authority's residents, employees, and property (real and personal), and the control of traffic and parking in the Housing Authority Community. In the event that any such rules and regulations contravene the laws, ordinances, rules, or regulations of the District of Columbia, which are existing or

subsequently enacted, these laws, ordinances, rules, or regulations of the District of Columbia shall apply and the conflicting rule or regulation, or portion thereof, of the Authority shall be void.

(2) The rules and regulations established under this subsection shall be adopted and published in accordance with the standards of due process, including the publication or circulation of a notice of the intended action of the Authority. The adoption and publication of rules and regulations shall afford to interested persons the opportunity to submit data or views orally or in writing. After adoption, the rules and regulations shall be published in the District of Columbia Register.

(3) Any person violating any rule or regulation of the Authority shall, upon conviction by a court of competent jurisdiction, pay a fine of not more than \$250 and costs.

(g) With respect to members of the DCHAPF, the Authority shall:

(1) Establish classifications based on the nature and scope of duties and fix and provide for their qualifications, appointment, removal, tenure, term, compensation, pension, and retirement benefits;

(2) Provide training; for the purposes of this paragraph, the Authority may enter into contracts or agreements with any public or private organization engaged in police training. The training and the qualifications of the uniformed and plainclothes personnel shall at least be equal to the requirements of the District of Columbia for its personnel performing comparable duties; and

(3) Prescribe distinctive uniforms to be worn.

(h) The Authority shall have the power to enter into agreements with public safety agencies, including those of the federal government, for the delineation of the responsibilities of the DCHAPF and with the duly constituted police, fire, and other public safety agencies for mutual assistance.

(i) Before entering upon the duties of office, each member of the DCHAPF shall take or subscribe to an oath of affirmation, in the presence of a person authorized to administer oaths, to faithfully perform the duties of that office.

(j)(1) Retired police officers of the District of Columbia Metropolitan Police Force ("Metropolitan Police Force") shall be permitted to be deployed as Authority police officers.

(A) Except for disability annuitants, police officers retired from the Metropolitan Police Force shall be eligible for rehire at the discretion of the Receiver or Executive Director of the Housing Authority as Authority police officers without jeopardy to any retirement benefits of the police officers.

(B) Service pursuant to this subsection shall not count as creditable service for the purposes of § 4-610.

(2) All costs associated with the hiring of retired police officers as Authority police officers shall be absorbed by the Authority. (March 21, 1995, D.C. Law 10-243, § 10a, as added Mar. 20, 1998, D.C. Law 12-62, § 2(b), 44 DCR 7486.)

Effect of amendments. — D.C. Law 12-62 added this section.

Temporary addition of section. — Section 2(b) of D.C. Law 11-208 added this section.

Section 4(b) of D.C. Law 11-208 provides that the act shall expire after 225 days of its having taken effect.

Temporary amendment of section. — Section 2 of D.C. Law 12-272 amended this section to read as follows:

"§ 5-128.1. District of Columbia Housing Authority Police Department

"(a) The Housing Authority is authorized to establish and maintain a regular police depart-

ment, to be known as the District of Columbia Housing Authority Police Department ("DCHAPD"), to provide protection for its residents, employees, and real and personal property. The DCHAPD shall be composed of uniformed and plainclothes personnel. The DCHAPD shall be charged with the duty of enforcing laws, ordinances, rules and regulations of the Housing Authority and the District of Columbia. Members of the DCHAPD shall have the power to execute any traffic citation or any criminal process, misdemeanor or felony, issued by any court of the District of Columbia, or any felony, misdemeanor, or other offense against District of Columbia laws, ordinances, rules, or regulations. The jurisdiction of the DCHAPD shall be concurrent with that of the Metropolitan Police Department and coextensive with the territorial boundaries of the District of Columbia.

"(b) Members of the DCHAPD shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the District of Columbia. Nothing contained in this section shall either relieve any agency from its duty to provide police, fire, or other public safety service and protection, or limit, restrict, or interfere with the jurisdiction or performance of duties by existing police, fire, and other public safety agencies.

"(c) A member of the DCHAPD shall have the same powers, including the power of arrest, and shall be subject to the same limitations, including regulatory limitations, in the performance of his or her duties as a member of the duly constituted police force of the District of Columbia. Members of the DCHAPD are authorized to carry and use only such weapons, including handguns, as are issued by the Authority. Members of the DCHAPD are authorized to carry issued weapons both on and off duty in the District of Columbia and are subject to such additional limitations as are imposed on the duly constituted police force for the District of Columbia in accordance with § 22-3205.

"(d) Repealed.

"(e) Upon the apprehension or arrest of any person by a member of the DCHAPD, the officer, as required by the laws of the District of Columbia, shall either issue a summons or a citation against the person, book the person, or deliver the person to the duly constituted police or judicial officer of the District of Columbia for disposition as required by law.

"(f)(1) The Authority shall have the power to adopt rules and regulations and to establish fines for the safe, convenient, and orderly use of the properties owned, controlled, or operated by the Authority, including the protection of the Authority's residents, employees, and property (real and personal), and the control of traffic and parking in, on, or around properties owned or managed by the Authority. In the event that

any such rules and regulations contravene the laws, ordinances, rules, or regulations of the District of Columbia, which are existing or subsequently enacted, these laws, ordinances, rules, or regulations of the District of Columbia shall apply and the conflicting rule or regulation, or portion thereof, of the Authority shall be void.

"(g) With respect to members of the DCHAPD, the Authority shall:

"(1) Establish classifications based on the nature and scope of duties and fix and provide for their qualifications, appointment, removal, tenure, term, compensation, pension, and retirement benefits;

"(2) Provide training; for the purposes of this paragraph, the Authority may enter into contracts or agreements with any public or private organization engaged in police training. The training and the qualifications of the uniformed and plainclothes personnel shall at least be equal to the requirements of the District of Columbia for its personnel performing comparable duties; and

"(3) Prescribe distinctive uniforms to be worn.

"(h) The Authority shall have the power to enter into agreements with public safety agencies, including those of the federal government, for the delineation of the responsibilities of the DCHAPD and with the duly constituted police, fire, and other public safety agencies for mutual assistance.

"(i) Before entering upon the duties of office, each member of the DCHAPD shall take or subscribe to an oath of affirmation, in the presence of a person authorized to administer oaths, to faithfully perform the duties of that office."

Section 4(b) of D.C. Law 12-272 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary addition of section, see § 2(b) of the District of Columbia Housing Authority Police Emergency Amendment Act of 1996 (D.C. Act 11-357, August 8, 1996, 43 DCR 4628), § 2(b) of the District of Columbia Housing Authority Police Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-417, October 28, 1996, 43 DCR 6080), § 2(b) of the District of Columbia Housing Authority Police Second Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-470, December 30, 1996, 44 DCR 184), § 2(b) of the District of Columbia Housing Authority Police Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-67, Apr. 18, 1997, 44 DCR 2617), and § 2(b) of the Housing Authority Police Emergency Amendment Act of 1997

(D.C. Act 12-217, November 21, 1997, 44 DCR 7622).

Section 4 of D.C. Act 12-67 provides for the application of the act.

Section 4 of D.C. Act 12-217 provides for application of the act.

For temporary addition of section, see § 2(b) of the Housing Authority Police Congressional Recess Emergency Amendment Act of 1998 (D.C. Act 12-289, February 27, 1998, 45 DCR 1743).

Section 4 of D.C. Act 12-289 provided for the application of the act.

For temporary amendment of section, see § 2(b) of the Housing Authority Emergency Amendment Act of 1998 (D.C. Act 12-569, January 12, 1999, 45 DCR 887).

Legislative history of Law 11-208. — See note to § 5-121.

Legislative history of Law 12-62. — See note to § 5-121.

Legislative history of Law 12-272. — See note to § 5-121.

§ 5-129. Procurement.

(a) No Commissioner, officer, or employee designated to do purchasing for the Authority shall have any material interest, either directly or indirectly, in any contract for the purchase of supplies, materials, equipment, or services.

(b) The Board shall develop standards for purchases of, and contract for, supplies and services consistent with applicable laws. Emergency purchases shall be allowed subject to the approval of persons delegated to do so by the Board, and a full written determination and finding of the circumstances of such emergency purchase, along with the purchase documents, shall be immediately open to public inspection. The Authority shall be exempt from Chapter 11A of Title 1. (Mar. 21, 1995, D.C. Law 10-243, § 11, 42 DCR 91.)

Legislative history of Law 10-243. — See note to § 5-121.

Purpose of Law 10-243. — See note to § 5-121.

§ 5-130. Conflict of interest.

(a) For a period of one year after termination or expiration of his or her term as a Commissioner, no former Commissioner or Executive Director shall appear before any court or government department or agency as agent or attorney for anyone other than the Authority in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the Authority is substantially interested, and with respect to which he or she took any action or made any decision as a Commissioner or Executive Director at any time within a period of one year prior to the termination or expiration of that position.

(b) No Commissioner, Executive Director, or any officer of the Authority shall have any interest either directly or indirectly, in any firm or agency interested directly or indirectly in any transaction with the Authority, including, but not limited to, builders, real estate developers or management companies. (Mar. 21, 1995, D.C. Law 10-243, § 12, 42 DCR 91.)

Legislative history of Law 10-243. — See note to § 5-121.

Purpose of Law 10-243. — See note to § 5-121.

§ 5-131. Local law.

(a) The provisions of Chapter 19 of Title 45 shall not apply to the property managers of housing properties within the jurisdiction of the Authority. The

activities of property managers of housing properties shall be regulated by the applicable statutes, rules, and regulations of the United States.

(b) Execution or other judicial process shall not issue against the real property of the Authority nor shall any judgment against the Authority be a charge or lien upon its real property. This section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage on property of the Authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees, and revenues. (Mar. 21, 1995, D.C. Law 10-243, § 13, 42 DCR 91; Apr. 9, 1997, D.C. Law 11-255, § 12, 44 DCR 1271.)

Effect of amendments. — D.C. Law 11-255 validated a previously made technical correction in (a).

Legislative history of Law 10-243. — See note to § 5-121.

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to

the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Purpose of Law 10-243. — See note to § 5-121.

§ 5-132. Tax exemption.

Assets and income of the Authority are exempt from District taxation. The Authority may make, at its discretion, payment in lieu of taxation. (Mar. 21, 1995, D.C. Law 10-243, § 14, 42 DCR 91; Apr. 18, 1996, D.C. Law 11-110 § 11(b), 43 DCR 50.)

Effect of amendments. — D.C. Law 11-110 deleted “the” preceding “District” in the first sentence.

Legislative history of Law 10-243. — See note to § 5-121.

Legislative history of Law 11-110. — See note to § 5-124.

Purpose of Law 10-243. — See note to § 5-121.

§ 5-133. Disposition of assets on dissolution.

If the Authority is dissolved by repeal of this chapter or ceases to exist for any other reason, all of its assets (including, but not limited to, cash, accounts receivable, reserve funds, real or personal property, and contract and other rights) shall automatically be assigned to and become the property of the District. (Mar. 21, 1995, D.C. Law 10-243, § 15, 42 DCR 91.)

Legislative history of Law 10-243. — See note to § 5-121.

Purpose of Law 10-243. — See note to § 5-121.

CHAPTER 3. FLOOD HAZARDS.

§ 5-301. Review of building permit applications; design and construction requirements.

Delegation of Authority Pursuant to D.C. Law 1-64, the “D.C. Applications In-

surance Implementation Act.” — See Mayor’s Order 98-46, April 15, 1998 (45 DCR 2691).

CHAPTER 4. ZONING AND HEIGHT OF BUILDINGS.

Sec.	Sec.
5-405. Street width to control building height; business streets; residence streets; specified properties; structures above top story of building.	5-427. Enforcement of zoning regulations.
5-415. Same — Existing regulations continued; public hearing on amendments required; notice.	5-433. Mayor to prescribe fees for permits, certificates, and transcripts by Inspector of Buildings; schedule of fees to be displayed.

§ 5-405. Street width to control building height; business streets; residence streets; specified properties; structures above top story of building.

* * * * *

(f) On blocks immediately adjacent to public buildings or to the side of any public building for which plans have been prepared and money appropriated at the time of the application for the permit to construct said building, the maximum height shall be regulated by a schedule adopted by the Council of the District of Columbia. This restriction shall not apply to any structure that is set back from the 14th Street property line to a line that is continuous with the facade of the adjacent Bureau of Engraving and Printing annex building that is located along 14th Street, S.W., between C and D Streets, S.W. The height of a structure described in the preceding sentence shall be established in accordance with the requirements of Chapter 4 of Title 5.

* * * * *

(Apr. 20, 1999, D.C. Law 12-234, § 2, 46 DCR 643.)

Effect of amendments. — D.C. Law 12-234 added the second and third sentences in (f).

Legislative history of Law 12-234. — Law 12-234, the “Schedule of Heights of Buildings Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-170, which was referred to the Committee of the Whole.

The Bill was adopted on first and second readings on November 10, 1998 and December 1, 1998, respectively. Signed by the Mayor on December 21, 1998, it was assigned Act No. 12-558 and transmitted to both Houses of Congress for its review. D.C. Law 12-234 became effective April 20, 1999.

§ 5-410. Erection or alteration of buildings fronting on certain federal property; applications submitted to Commission of Fine Arts for review.

Notice. — Where neighborhood association submitted applications with the Department of Consumer and Regulatory Affairs (DCRA) for revised building permits which included modifications to the rear yards of two lots, where these changes to the rear yards were approved and revised building permits were issued, and where petitioners’ appeal was filed approximately two months after the revised building permits were issued, petitioners were not “chargeable with notice” of the approval of the revised building permits pertaining to the rear yard modifications until the approval.

Mendelson v. District of Columbia Bd. of Zoning Adjustment, App. D.C., 645 A.2d 1090 (1994).

Filing of appeal. — The timely filing of an appeal with the Board of Zoning Adjustment is mandatory and jurisdictional. *Mendelson v. District of Columbia Bd. of Zoning Adjustment*, App. D.C., 645 A.2d 1090 (1994).

Cited in *District Intown Properties, Ltd. v. District of Columbia Dept’t of Consumer & Regulatory Affairs*, App. D.C., 680 A.2d 1373 (1996); *District Intown Properties Ltd. Partnership v. District of Columbia*, 23 F. Supp. 2d 30 (D.D.C. 1998).

§ 5-412. Zoning Commission — Created; composition; appointment; term of office; compensation; Chairman; powers generally [Charter Provision].

Cross references.

As to compensation for Zoning Commission members, see § 1-612.8(c)(2)(G).

As to compensation for the Chairman of the Zoning Commission, see § 1-612.8(c)(2)(J).

Section references.

This section is referred to in § 1-633.7.

§ 5-412.4. Same — Recommendations, reports, review and comment by Office of Planning.

Relevance of comments. — Since the issues and concerns identified by both the Office of Planning and the Advisory Neighborhood Commission (ANC) related only to whether a variance should be granted, and not to whether a variance was required in the first place, they were not “legally relevant” unless the Board of

Zoning Adjustment (BZA) ruled that it required a variance. Because the BZA concluded otherwise, the issues raised by the ANC and the Office of Planning never became “legally relevant.” *Concerned Citizens v. District of Columbia Bd. of Zoning Adjustment*, App. D.C., 634 A.2d 1234 (1993).

§ 5-413. Zoning Commission — Regulations; districts or zones.

Section references. — This section is referred to in §§ 5-415, 5-423, 5-424, 5-426 to 5-432, 7-429, and 9-401.

Emergency act amendments. — For temporary designation of all buildings, structures, and other improvements at Ivy City Yard relating to a fixed right-of-way mass transit system, see § 3 of the Ivy City Yard Fixed Right-Of-Way Mass Transit System Designation Emergency Act of 1997 (D.C. Act 12-69, May 1, 1997, 44 DCR 3080) and see § 3 of the Ivy City Yard Fixed Right-of Way Mass Transit System Designation Congressional Review Emergency Act of 1997 (D.C. Act 12-124, August 1, 1997, 44 DCR 4654).

Section 5 of D.C. Act 12-124 provides for the application of the act.

Council approval of improvements within Ivy City Yard. — Section 3 of D.C. Law 12-15 and § 3 of D.C. Law 12-19 provide that the Council approves the designation of all buildings, structures, and other improvements now or hereafter built within the Ivy City Yard, or any part thereof, and used in connection with the administration, operation, maintenance, or repair of a railroad or a railyard, including related rail activities and uses as related to a fixed right-of-way mass transit system.

Section 5(b) of D.C. Law 12-15 provided that the act shall expire after 225 days of its having taken effect or upon the effective date of the Ivy City Yard Fixed Right-of-Way Mass Transit System Designation Act of 1997, whichever occurs first.

Zoning Review Task Force. — Title VI of D.C. Law 12-86, as amended by § 58 of D.C.

Law 12-264, provided for a Zoning Review Task Force as follows:

“Sec. 601. There is established a Zoning Review Task Force (“Task Force”) in the District which shall consist of 11 voting members as follows:

(1) There shall be 3 ex officio members who each may designate a representative to perform the member’s responsibilities under this act as follows:

(A) The Mayor of the District of Columbia;

(B) The Chairman of the Council of the District of Columbia (“Council”); and

(C) The Chairman of the Council Committee on Consumer and Regulatory Affairs.

(2) There shall be 8 public members, including the chairperson of the Task Force, each of whom shall be appointed by the Mayor with the advice and consent of the Council. The public members shall be nominated as follows:

(A) One member shall be nominated from a list of persons recommended by the District of Columbia Building Industry Association, each of whom shall be a resident of the District, or a nonresident who represents a business licensed and doing business in the District;

(B) One member shall be nominated from a list of persons recommended by the Greater Capital Area Association of Realtors, each of whom shall be a resident of the District, or a nonresident who represents a business licensed and doing business in the District;

(C) One member shall be nominated from a list of persons recommended by the Board of Governors of the District of Columbia Bar, each

of whom shall be a resident of the District, or a nonresident who has demonstrated an expertise in zoning issues in the District;

(D) One member shall be nominated from a list of persons recommended by the District of Columbia Chamber of Commerce, each of whom shall have demonstrated an expertise in zoning issues in the District;

(E) Two members shall be nominated by the Mayor, each of whom shall be residents of the District and each of whom shall not be an official representative of any business concerned with zoning issues in the District of Columbia; and

(F) Two members shall be nominated by the Council, each of whom shall be residents of the District and each of whom shall not be an official representative of any business or profession concerned with zoning issues in the District of Columbia.

(3) Members of the Task Force shall be appointed by the Mayor within 60 days of the effective date of the Omnibus Regulatory Reform Amendment Act of 1998. A vacancy on the Task Force shall be filled in the same manner that the original appointment was made.

(4) The Task Force shall meet at the call of the chairperson, who shall convene the first meeting of the Task Force not later than 15 days after all appointments have been made. The Task Force shall meet not less than once each month.

(5) A majority of the members of the Task Force shall constitute a quorum. A written transcript or audio transcript shall be kept for all meetings at which a vote is taken.

(6) Members of the Task Force shall not be entitled to compensation for time expended in the performance of official duties, and shall be entitled only to reimbursement for actual and necessary expenses incurred in the performance of official duties approved in advance by a majority of the Task Force.

(7) The Task Force may request from any department, agency or instrumentality of the District government, including independent agencies, any information necessary to carry out the provisions of this title. Each department, agency, instrumentality, or independent agency of the District shall cooperate with the Task Force and provide any information, in a timely manner, that the Task force reasonably requests to carry out the provisions of this title.

(8) The Mayor shall provide administrative and technical support, office space, staff, and other resources needed by the Task Force to carry out the provisions of this title.

(9) In addition to funds appropriated or allocated by the District government, the Task Force may solicit, receive, accept, and expend contributions or grants from private or federal sources to carry out the provisions of this title. Any Task Force solicitation, receipt, acceptance, or expenditure of contributions or grants from private sources must be approved in advance by the Mayor.

(10) The Task Force may enter into contracts, for which sufficient appropriations or other public or private funding is available and provided, with federal or state agencies, private firms, institutions, or individuals to conduct research or surveys, prepare reports, and perform other activities necessary to the discharge of its duties.

(11) The Task Force may establish committees, subcommittees, or advisory groups, as it deems necessary to carry out the purposes of this title.

(12) The Task Force shall cease to exist 90 days after the report required by section 602 is submitted to the Mayor and the Council.

Sec. 602. Duties of the Task Force; recommended legislation.

(a) Within 270 days from the date of the first meeting of its members, the Task Force shall submit a written report to the Mayor and the Council which includes the following information:

(1) An identification of statutes, regulations, and Charter provisions that concern land use, zoning, and the administration and adjudication of zoning regulations; and

(2) Recommendations, including proposed legislation, to modify, amend, repeal or otherwise change statutes and regulations concerning land use, zoning, and the administration and adjudication of zoning issues to assure rational and consistent application of such statutes and regulations.

(b) The Chairman of the Council, upon request of the Task Force, shall introduce in the Council any proposed legislation which the Task Force determines to be necessary to further the purposes set forth in this title."

Religious practices. — Zoning boards have no role to play in telling a religious organization how it may practice its religion; thus, a city cannot use its zoning laws to regulate the way a particular religion offers its prayers or the way a religion celebrates its holidays. *Western Presbyterian Church v. Board of Zoning Adjustment*, 862 F. Supp. 538 (D.D.C. 1994).

§ 5-414. Zoning regulations — Purpose [Charter Provision].

Zoning Review Task Force. — See note to § 5-413.

§ 5-415. Same — Existing regulations continued; public hearing on amendments required; notice.

The regulations prior to June 20, 1938, adopted by the Zoning Commission under the authority of § 5-412 and in force on June 20, 1938, including the maps which at said date accompany and are a part of such regulations, shall be deemed to have been made and adopted and in force under §§ 5-413 to 5-432 and shall be and continue in force and effect until and as they may be amended by the Zoning Commission as authorized by said §§ 5-413 to 5-432. The Zoning Commission may from time to time amend the regulations or any of them or the maps or any of them. Before putting into effect any amendment or amendments of said regulations, or of said map or maps, the Zoning Commission shall hold a public hearing thereon and provide notice of the hearing in accordance with the requirements of subchapter I of Chapter 15 of Title 1. Such published notice shall include a general summary of the proposed amendment or amendments of the regulation or regulations and the boundaries of the territory or territories included in the amendment or amendments of the map or maps, and the time and place of the hearing. The Zoning Commission shall give such additional notice of such hearing as it shall deem feasible and practicable. At such hearing it shall afford any person present a reasonable opportunity to be heard. Such public hearing may be adjourned from time to time and if the time and place of the adjourned meeting be publicly announced when the adjournment is had, no further notice of such adjourned meeting need be published. (June 20, 1938, 52 Stat. 798, ch. 534, § 3; 1973 Ed., § 5-415; Apr. 27, 1999, D.C. Law 12-275, § 5, 46 DCR 1441.)

Section references. — This section is referred to in §§ 5-413, 5-423, 5-424, 5-426, 5-427, 5-428, 5-429, 5-430, 5-431, 5-432, 40-807, and 40-851.

Effect of amendments. — D.C. Law 12-275 added “and provide notice of the hearing in accordance with the requirements of subchapter I of Chapter 15 of Title 1” to the end of the third sentence; and deleted the former fourth sentence pertaining to the requirement of 30 days notice of the time and place of public hearings.

Legislative history of Law 12-275. — Law 12-275, the “Comprehensive Plan Amendment

Act of 1998,” was introduced in Council and assigned Bill No. 12-99, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-609 and transmitted to both Houses of Congress for its review. D.C. Law 12-275 became effective on April 27, 1999.

Zoning Review Task Force. — See note to § 5-413.

§ 5-423. Nonconforming use.

Church feeding programs cannot be arbitrarily restricted. — Effort to minister to less fortunate residents ought not be arbitrarily restricted and relegated to the less desirable areas of the city because of the unfounded or irrational fears of certain residents; to the extent a feeding program did not constitute a

nuisance, the plaintiffs were allowed to resume this exemplary service at the church's new location which is only a few blocks from where it has conducted its very worthwhile program for over 10 years without incident. *Western Presbyterian Church v. Board of Zoning Adjustment of D.C.*, 849 F. Supp. 77 (D.D.C. 1994).

§ 5-424. Board of Zoning Adjustment.

Cross references. — As to compensation of Board of Zoning Adjustment members, see § 1-612.8(c)(2)(A).

As to compensation of chairman of the Board of Zoning Adjustment, see § 1-612.8(c)(2)(J).

Section references.

This section is referred to in § 1-633.7.

Location and expansion of university. —

The Board of Zoning Adjustment correctly concluded that it lacked the authority to prohibit American University from occupying commercially zoned off-campus property for the purpose of constructing a new law school on that property. *Spring Valley Wesley Heights Citizens Ass'n v. Board of Zoning Adjustment*, App. D.C., 644 A.2d 434 (1994).

Presumption of validity. — A certificate of occupancy enjoys a presumption of validity. Attacks on such certificate belong, in the first instance, not before the courts, but before the administrator and then the D.C. Board of Zoning Adjustment. *Burka v. Aetna Life Ins. Co.*, 945 F. Supp. 313 (D.D.C. 1996).

Zoning regulations construed.

A private music school met the dictionary definition of a "school," in the context of zoning regulations, in that it was an organized source of education or training as well as a place where instruction was given. *Neighbors on Upton St. v. District of Columbia Bd. of Zoning Adjustment*, App. D.C., 697 A.2d 3 (1997).

A music school was a "private school" and not a "trade school" in the context of zoning regulations that disallowed trade schools; the school was established, conducted, and primarily supported by a nongovernmental agency, and although some music school graduates became professional musicians, the school did not exist just to teach students a trade. *Neighbors on Upton St. v. District of Columbia Bd. of Zoning Adjustment*, App. D.C., 697 A.2d 3 (1997).

Cited in *National Trust for Historic Preservation v. Department of State*, 834 F. Supp. 443 (D.D.C. 1993), *aff'd in part and rev'd in part sub nom. Sheridan Kalorama Historical Ass'n v. Christopher*, 49 F.3d 750 (D.C. Cir. 1995).

§ 5-426. Building permits; certificates of occupancy.

Understatement of occupancy not misrepresentation. — There was no basis to find that American University's assertion of an occupancy of 1200 students when it has an enrollment of 1354 constituted a misrepresentation.

Burka v. Aetna Life Ins. Co., 945 F. Supp. 313 (D.D.C. 1996).

Cited in *Bagley v. Foundation for Preservation of Historic Georgetown*, App. D.C., 647 A.2d 1110 (1994).

§ 5-427. Enforcement of zoning regulations.

(a) The Mayor of the District of Columbia shall enforce the regulations adopted under the authority of §§ 5-413 to 5-432. Nothing contained in §§ 5-413 to 5-432 shall be construed to limit the authority of the Mayor or Council of the District of Columbia to make municipal regulations which are not inconsistent with the provisions of §§ 5-413 to 5-432 and the regulations adopted thereunder.

(b) If, pursuant to rules issued pursuant to §§ 5-413 through 5-432, the Zoning Commission approves a zoning density increase for a commercial office building or structure with a floor area ratio that is greater than the floor area ratio permitted as a matter of right under the zoning regulations, the applicant who obtains the zoning density increase shall be required to comply with the housing requirements set forth in section 308b of the Comprehensive Plan, as such requirements may be amended. (June 20, 1938, 52 Stat. 801, ch. 534, § 11; 1973 Ed., § 5-423; Oct. 6, 1994, D.C. Law 10-193, § 3(d), 41 DCR 5536.)

Effect of amendments. — D.C. Law 10-193 added the designation "(a)" and added (b).

Legislative history of Law 10-193. — Law 10-193, the "Comprehensive Plan Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-212, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 7,

1994, and June 21, 1994, respectively. Signed by the Mayor on August 8, 1994, it was assigned Act No. 10-323 and transmitted to both Houses of Congress for its review. D.C. Law 10-193 became effective on October 6, 1994.

Effective date of District elements of the Comprehensive Plan for the National Capital. — Section 4(b) of D.C. Law 10-193 pro-

vided that no District element of the Comprehensive Plan for the National Capital shall take effect until it has been reviewed by the National Capital Planning Commission as provided in § 1-2002(a) and § 1-244.

References in text. — Section 308b of the Comprehensive Plan referred to in (b) is § 308b of Title 10 of the D.C. Municipal Regulations.

§ 5-432. Federal public buildings excepted from §§ 5-413 to 5-432.

Section references. — This section is referred to in §§ 1-2004, 5-413, 5-415, 5-423,

5-424, 5-426, 5-427, 5-428, 5-429, 5-430, 5-431, 7-429, and 7-1041.

§ 5-433. Mayor to prescribe fees for permits, certificates, and transcripts by Inspector of Buildings; schedule of fees to be displayed.

(a) Except as provided in subsection (b) of this section, the Mayor of the District of Columbia is hereby authorized and directed, from time to time, to prescribe a schedule of fees to be paid for permits, certificates, and transcripts of records issued by the Inspector of Buildings of the District of Columbia, for the erection, alteration, repair, or removal of buildings and their appurtenances, and for the location of certain establishments for which permits may be required under the building regulations of the District of Columbia, said fees to cover the cost and expense of the issuance of said permits and certificates and of the inspection of the work done under said permits; said schedule shall be printed and conspicuously displayed in the office of said Inspector of Buildings; said fees shall be paid to the Collector of Taxes of the District of Columbia and shall be deposited by him in the Treasury of the United States to the credit of the revenues of the District of Columbia.

(b) A child development home, as defined in § 3-301(3), shall be exempt from all fees relating to certificates of occupancy; other than reasonable fees charged for providing copies of a certificate of occupancy beyond the one certified copy of the certificate of occupancy to which the child development home is entitled free of charge. (Mar. 3, 1909, 35 Stat. 689, ch. 250; 1973 Ed., § 5-429; Apr. 20, 1999, D.C. Law 12-255, § 2, 46 DCR 1279.)

Effect of amendments. — D.C. Law 12-255 added "Except as provided in subsection (b) of this section" to the beginning of (a), and added (b).

Emergency act amendments. — For temporary amendment of section, see § 2 of the Child Development Home Promotion Emergency Amendment Act of 1998 (D.C. Act 12-444, October 9, 1998, 45 DCR 7304), and § 2 of the Child Development Home Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-604, January 20, 1999, 45 DCR 1281).

Section 5 of D.C. Act 12-604 provides for the retroactive application of the act.

Legislative history of Law 12-255. — Law 12-255, the "Child Development Home Promotion Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-820, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 1, 1998 and December 15, 1998, respectively. Signed by the Mayor on December 29, 1998, it was assigned Act No. 12-603 and transmitted to both Houses of Congress for its review. D.C. Law 12-255 became effective on April 20, 1999.

CHAPTER 5. FIRE SAFETY.

<p>Sec. 5-513. Mayor may correct conditions violative of law; assessment of cost; lien on property; fund to pay costs; sum-</p>	<p>mary corrective action of life-or-health threatening condition.</p>
---	--

§ 5-513. Mayor may correct conditions violative of law; assessment of cost; lien on property; fund to pay costs; summary corrective action of life-or-health threatening condition.

(a) Whenever the owner of any real property in the District of Columbia shall fail or refuse, after the service of reasonable notice in the manner provided in § 5-515, to correct any condition which exists on or has arisen from such property in violation of law or of any regulation made by authority of law, with the correction of which condition said owner is by law or by said regulation chargeable, or to show cause, sufficient in the judgment of the Mayor of said District, why he should not be required to correct such condition, then, and in that instance, the Mayor of the District of Columbia is authorized to: Cause such condition to be corrected; assess the fair market value of the correction of the condition or the actual cost of the correction, whichever is higher, and all expenses incident thereto (including the cost of publication, if any, herein provided for) as a tax against the property on which such condition existed or from which such condition arose, as the case may be; and carry such tax on the regular tax rolls of the District, and collect such tax in the same manner as general taxes in said District are collected; provided, that the correction of any condition aforesaid by the Mayor of said District under authority of this section shall not relieve the owner of the property on which such condition existed, or from which such condition arose, from criminal prosecution and punishment for having caused or allowed such unlawful condition to arise or for having failed or refused to correct the same.

* * * * *

(c) The Mayor may cause the summary correction of housing regulation violations where a life-or-health threatening condition exists, as determined by the Mayor. A life-or-health threatening condition means a condition that imminently endangers the health or safety of the tenant or occupant of the premises in a housing unit or housing accommodation, or that imminently endangers the health, safety, or welfare of the surrounding community. The condition may include, but is not limited to, the interruption of electrical, heat, gas, water, or other essential services, when the interruption results from other than natural causes. The Mayor shall notify promptly the owner or authorized agent that the correction is ordered within a specified time period. If at the time of this notice the owner is engaged in a good faith effort to make the necessary correction, the Mayor shall not commence corrective action unless and until the owner interrupts or ceases the effort. A good faith effort shall be one which is likely to cause the correction of the condition at least as soon as it could otherwise be corrected by the Mayor. The Mayor shall provide

an opportunity for review of the summary corrective action without prejudice to the Mayor's authority to take and complete that action. The owner or authorized agent shall be notified by personal service or by registered mail to the last known address and by conspicuous posting on the property. If the owner or address is unknown, or cannot be located, notice shall be provided by conspicuous posting on the property. The Mayor may assess all reasonable costs of correcting the condition and all expenses incident thereto as a tax against the property, to carry this tax on the regular tax rolls, and to collect the tax in the same manner as real estate taxes are collected. Monies in the revolving fund established by subsection (b)(1) of this section shall be available to cover the costs of the summary correction authorized by this subsection.

* * * * *

(Feb. 27, 1998, D.C. Law 12-52, § 2, 44 DCR 6226; Mar. 26, 1999, D.C. Law 12-201, § 2, 45 DCR 8410.)

Effect of amendments. — D.C. Law 12-52 substituted "assess the fair market value of the correction of the condition or the actual cost of the correction, whichever is higher" for "assess the cost of correcting such condition."

D.C. Law 12-201, in the second sentence of (c), substituted "that imminently endangers the health or safety of the tenant or occupant of the premises in a housing unit or housing accommodation, or that imminently endangers the health, safety, or welfare of the surrounding community" for "which imminently endangers the health or safety of the tenant who occupies the premises in a housing unit."

Emergency act amendments. — For temporary amendment of section, see § 2 of the Nuisance Repairs Emergency Amendment Act of 1997 (D.C. Act 12-101, July 2, 1997, 44 DCR 4195), § 2 of the Nuisance Repairs Legislative Review Emergency Amendment Act of 1997 (D.C. Act 12-159, October 16, 1997, 44 DCR 6053), and § 2 of the Nuisance Repairs Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-241, January 13, 1998, 45 DCR 636)..

Legislative history of Law 12-52. — Law

12-52, the "Nuisance Repairs Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-174, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on September 8, 1997, and September 22, 1997, respectively. Signed by the Mayor on October 3, 1997, it was assigned Act No. 12-169 and transmitted to both Houses of Congress for its review. D.C. Law 12-52 became effective on February 27, 1998.

Legislative history of Law 12-201. — Law 12-201, the "Summary Abatement of Life-or-Health Threatening Conditions Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-175, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 13, 1998, it was assigned Act No. 12-487 and transmitted to both Houses of Congress for its review. D.C. Law 12-201 became effective on March 26, 1999.

Cited in *Stuart v. District of Columbia*, App. D.C., 694 A.2d 49 (1997).

CHAPTER 6. UNSAFE STRUCTURES.

Sec.

5-606. Payment of cost assessed against property; sale of property for nonpayment.

§ 5-601. Unsafe structure or excavation — Inspection; owner to remove or secure; Mayor may take immediate action; “Mayor” defined.

Demolition of historic landmark. — The Mayor’s agent under the Preservation Act has no authority to order the demolition of a historic landmark in the interest of the health,

safety, and welfare of the community. *District of Columbia Preservation League v. Department of Consumer & Regulatory Affairs*, App. D.C., 646 A.2d 984 (1994).

§ 5-606. Payment of cost assessed against property; sale of property for nonpayment.

(a) Any tax authorized to be levied and collected under § 5-604, may be paid without interest within 60 days from the date such tax was levied. Interest of 20% per annum shall be charged on all unpaid amounts from the expiration of 60 days from the date such tax was levied. Any such tax may be paid in 3 equal installments with interest thereon. If any such tax or part thereof shall remain unpaid after the expiration of 2 years from the date such tax was levied, the property against which said tax was levied may be sold for such tax or unpaid portion thereof with interest and penalties thereon at the next ensuing annual tax sale conducted pursuant to § 47-1301 in the same manner and under the same conditions as property sold for delinquent general real estate taxes, if said tax with interest and penalties thereon shall not have been paid in full prior to said sale.

* * * * *

(Apr. 9, 1997, D.C. Law 11-198, § 201, 43 DCR 4569.)

Effect of amendments. — D.C. Law 11-198 inserted “conducted pursuant to § 47-1301” in the last sentence in (a).

Temporary amendment of section. — Section 201 of D.C. Law 11-226 amended (a) to read as follows:

“(a) Any tax authorized to be levied and collected under § 5-604, may be paid without interest within 60 days from the date such tax was levied. Interest of 20% per annum shall be charged on all unpaid amounts from the expiration of 60 days from the date such tax was levied. Any such tax may be paid in 3 equal installments with interest thereon. If any such tax or part thereof shall remain unpaid after the expiration of 2 years from the date such tax was levied, the property against which said tax was levied may be sold for such tax or unpaid portion thereof with interest and penalties thereon at the next ensuing annual tax sale conducted pursuant to § 47-1301 in the same manner and under the same conditions as property sold for delinquent general real estate taxes, if said tax with interest and penalties thereon shall not have been paid in full prior to said sale.”

Section 1001 of D.C. Law 11-226 provided that Titles I, II, III, V, and VI of the act shall apply after September 30, 1996.

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date of the Fiscal year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 201 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181); § 201 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151), and § 201 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Section 1001 of D.C. Act 11-302 provided for the application of the act.

Section 1001 of D.C. Act 11-429 provided for the application of the act.

Section 1001 of D.C. Act 12-2 provided for the application of the act.

Legislative history of Law 11-198. — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed

by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

Legislative history of Law 11-226. — Law 11-226, the "Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-896. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996,

respectively. Signed by the Mayor on December 4, 1996, it was assigned Act No. 11-453 and transmitted to both Houses of Congress for its review. D.C. Law 11-226 became effective on April 9, 1997.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provided that Titles I, II, III, V, and VI and §§ 405 and 406 of the act shall apply after September 30, 1996.

CHAPTER 7. INSANITARY BUILDINGS.

§ 5-702. Board for the Condemnation of Insanitary Buildings; Condemnation Review Board.

The Mayor's agent could not legally invoke powers of the Insanitary Buildings Act because he was acting under the Preserva-

tion Act. *District of Columbia Preservation League v. Department of Consumer & Regulatory Affairs*, App. D.C., 646 A.2d 984 (1994).

CHAPTER 8. HOUSING REDEVELOPMENT.

Sec.

5-803. District of Columbia Redevelopment Land Agency — Established; composition; appointment; Chairman; term of office; vacancies; compensation; corporate powers; proce-

dures for disposition of claims; facilities donated as local noncash grant-in-aid; maintenance of rental property; waiver of special assessments.

§ 5-801. Purpose.

Section references. — This section is referred to in §§ 1-2295.19, 5-802, 5-803, 5-804, 5-805, 5-806, 5-807, 5-810, 5-813, 5-815, 5-816, 5-817, 5-818, 5-819, 5-820, 5-821, 5-825, 5-832, 5-837, and 7-133.

Transfer of powers, duties, and responsibilities from Board of Directors of Redevelopment Land Agency. — Section 30(a) of

D.C. Law 12-144 provided for the transfer of the powers, duties, and responsibilities of the Board of Directors of the Redevelopment Land Agency to the Board of Directors of the National Capital Revitalization Corporation, and for the abolition of the Board of Directors of the Redevelopment Land Agency.

§ 5-803. District of Columbia Redevelopment Land Agency — Established; composition; appointment; Chairman; term of office; vacancies; compensation; corporate powers; procedures for disposition of claims; facilities donated as local noncash grant-in-aid; maintenance of rental property; waiver of special assessments.

(a) The District of Columbia Redevelopment Land Agency is hereby established as an instrumentality of the District of Columbia government.

(b) The said District of Columbia Redevelopment Agency is hereby made a body corporate of perpetual duration, the powers of which shall be vested in

and exercised by the Board of Directors thereof. The Board of Directors of the National Capital Revitalization Corporation shall also serve as the Board of Directors of the Agency. Subject to any applicable provisions forming part of the contract with bondholders, nothing in section 201 of Public Law 93-198, title II, shall prohibit the District of Columbia government from dissolving the corporation, eliminating the Board of Directors, or taking such other action with respect to the powers and duties of such Agency, including those actions specified in subsection (c) of this section, as is deemed necessary and appropriate. It shall have the power to adopt, alter, and use a corporate seal which shall be judicially noticed; to make contracts; to sue and be sued, to complain and defend in its own name in any court of competent jurisdiction, state, federal, or municipal; to make, deliver, and receive deeds, leases, and other instruments and to take title to real and other property in its own name; to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations for the exercise of its powers under §§ 5-801 to 5-820 or governing the manner in which its business may be conducted and the powers granted to it by §§ 5-801 to 5-820 may be exercised and enjoyed, including the selection of officers other than its Chairman, together with provisions for such committees and the functions thereof as it may deem necessary for facilitation of its work; to protect and enforce any right conferred upon it by §§ 5-801 to 5-820, or otherwise acquired, including any lease, sale, or other agreement made by or with it; and in general to exercise all the powers necessary or proper to the performance of its duties and functions under §§ 5-801 to 5-820.

* * * * *

(Aug. 2, 1946, 60 Stat. 793, ch. 736, § 4; 1973 Ed., § 5-703; Dec. 24, 1973, 87 Stat. 778, Pub. L. 93-198, title II, § 201(a)-(c); May 10, 1989, D.C. Law 7-231, § 18, 36 DCR 492; Sept. 11, 1998, D.C. Law 12-144, § 31(a), 45 DCR 3747.)

Cross references. — As to compensation of Redevelopment Land Agency members, see § 1-612.8(c)(2)(F).

As to compensation of Chairperson of the Redevelopment Land Agency, see § 1-612.8(c)(2)(J).

Effect of amendments. — D.C. Law 12-144 rewrote (a); and in (b), rewrote the former first sentence to be the present first three sentences.

Legislative history of Law 12-144. — Law 12-144, the “National Capital Revitalization Corporation Act of 1998,” was introduced in Council and assigned Bill No. 12-514, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on March 3, 1998 and April 7, 1998, respectively. Signed by the Mayor on May 5, 1998, it was assigned Act No. 12-355 and transmitted to both Houses of Congress for its

review. D.C. Law 12-144 became effective September 11, 1998.

Effective date of § 31(a) of D.C. Law 12-144. — Section 33(b)(1) of D.C. Law 12-144 provided that § 31(a) shall take effect on the latter of: (A) September 11, 1998; or (B) the date determined by the Board, but not later than one year after the initial meeting of the Board.

References in text.

Section 201 of Public Law 93-198, Title II, referred to in (b), is § 201 of Title II of the District of Columbia Self-Government and Governmental Reorganization Act, the Act of December 24, 1973, 87 Stat. 774, Pub. L. 93-198, codified as §§ 5-803 and 5-804.

Editor’s notes. — The entire historical citation for this section is set out above to correct a typographical error appearing in the bound volume.

§ 5-805. Comprehensive plan; project area redevelopment plans; Shaw Junior High School.

Urban Renewal Plan for the Downtown Urban Renewal Area, First Modification

Approval Resolution of 1994. — Pursuant to Resolution 10-386, effective June 21, 1994, the

Council approved modifications to the Urban Renewal Plan for the Downtown Urban Renewal Area, Project No. 1, located in Ward 2, as adopted by the National Capital Planning Commission.

Urban Renewal Plan for the Southwest Urban Renewal Area, Project "C", Second Modification Approval Resolution of 1994. — Pursuant to Resolution 10-470, effective December 6, 1994, the Council approved modifications to the Urban Renewal Plan for the Southwest Urban Renewal Area, Project "C", located in Ward 2, as adopted by the National Capital Planning Commission.

Fort Lincoln Urban Renewal Area Revision Approval Resolution of 1994. — Pursuant to Resolution 10-471, effective December 6, 1994, the Council approved the National Capital Planning Commission's revision of the Urban Renewal Plan for the Fort Lincoln Urban Renewal Area.

Urban Renewal Plan for the Southwest Urban Renewal Area, Project "C", First Modification Approval Resolution of 1994. — Pursuant to Resolution 10-472, effective December 6, 1994, the Council approved modifications to the Urban Renewal Plan for the Southwest Urban Renewal Area, Project "C", located

in Ward 2, as adopted by the National Capital Planning Commission. Section 3(c) of Resolution 10-472 was amended by § 60 of D.C. Law 11-110.

Urban Renewal Plan for the Downtown Urban Renewal Area, First Modification Approval Resolution of 1995. — Pursuant to Resolution 11-123, effective July 29, 1995, the Council approved modifications to the Urban Renewal Plan for the Downtown Urban Renewal Area, located in Ward 2, as adopted by the National Capital Planning Commission.

Urban Renewal Plan for the Downtown Urban Renewal Area, Second Modification Approval Resolution of 1995. — Pursuant to Resolution 11-142, effective October 10, 1995, the Council approved modifications to the Urban Renewal Plan for the Downtown Urban Renewal Area, located in Ward 2, as adopted by the National Capital Planning Commission.

Urban Renewal Plan for the Fourteenth Street Urban Renewal Area Modification Approval Resolution of 1998. — Pursuant to Resolution 12-671, effective July 30, 1998, the Council approved the modifications to the Urban Renewal Plan for the Fourteenth Street Urban Renewal Area.

§ 5-806. Transfer, lease, or sale of real property for public and private uses.

Section references. — This section is referred to in §§ 1-2295.7, 5-801, 5-802, 5-803, 5-804, 5-805, 5-807, 5-810, 5-812, 5-813, 5-815, 5-816, 5-817, 5-818, 5-819, 5-820, 5-821, 5-825, 5-832, 5-837, and 7-133.

Unsolicited Proposal to Lease and Develop Parcel 6, Square 455, in the Downtown Urban Renewal Area Resolution of 1995. — Pursuant to Resolution 11-25, effective February 7, 1995, the Council reviewed and provided comments on an Unsolicited Proposal to Lease and Develop Parcel 6, Square 455, in the Downtown Urban Renewal Area.

Unsolicited Proposal Submitted by BUDCO Construction, Inc. for the Negotiated Disposition of Square 5252, Lots 142, 143, 144 and 145 Resolution of 1994. — Pursuant to Proposed Resolution 11-19, deemed approved February 24, 1995, Council reviewed and had no comments on an Unsolicited Proposal submitted by BUDCO Construction, Inc. for the negotiated disposition of Square 5252, Lots 142, 143, 144 and 145 which are located between 54th, Blaine and Dix Streets.

Unsolicited Proposal Submitted by the Camp Simms Limited Partnership for the Negotiated Disposition of Camp Simms Resolution of 1994. — Pursuant to Proposed Resolution 11-26, deemed approved May 3, 1995, Council reviewed and provided no comment on an Unsolicited Proposal submitted by

the Camp Simms Limited Partnership for the negotiated disposition of Camp Simms.

Unsolicited Proposal Submitted by AMB Enterprises, Inc. for the Negotiated Disposition of the former Thompson's Dairy Site. — Pursuant to Proposed Resolution 11-27, deemed approved May 3, 1995, Council reviewed and provided no comment on an Unsolicited Proposal submitted by AMB Enterprises, Inc. for the negotiated disposition of the former Thompson's Dairy site.

Unsolicited Proposal to Acquire 2250 12th Place, N.W., Approval Resolution of 1994. — Pursuant to Proposed Resolution 11-39, deemed approved June 24, 1995, Council reviewed and approved a development proposal to acquire and develop 2250 12th Place, N.W.

Unsolicited Proposal Submitted by The Washington Development Group, Inc. for the Negotiated Disposition and Development of Parcel 51-B in the Northwest Number One Urban Renewal Area Resolution of 1995. — Pursuant to Proposed Resolution 11-226, deemed approved November 2, 1995, Council reviewed and had no comment on an Unsolicited Proposal submitted by the Washington Development Group, Inc. for the negotiated disposition and development of Parcel 51-B in the Northwest Number One Urban Renewal Area.

Prospectus for Redevelopment Land Agency Parcels 45 and 47A Resolution of

1997. — Proposed Resolution 12-0116, the "Prospectus for Redevelopment Land Agency Parcels 45 and 47A Resolution of 1997" was deemed approved, effective Jan. 14, 1997.

Unsolicited Proposals for the Acquisition and Development of Parcel 51 Emergency Approval Resolution of 1998. — Pursuant to Resolution 12-618, effective July 7, 1998, the Council expressed its intent to review and provide comments, on an emergency basis, on an unsolicited proposal submitted by 400 Twelfth Street, L.L.C., for the acquisition and development of Parcel 51 (400 12th Street, S.W.).

Unsolicited Proposal Submitted by

Challenger Court, Inc., for the Acquisition and Development of the Remainder of Parcel 76 in the Former Southwest "C" Urban Renewal Area Resolution of 1998. — Pursuant to Resolution PR 12-1009, deemed approved on November 15, 1998, the Council reviewed and had no comment on the acceptance by the Board of Directors of the District of Columbia Redevelopment Land Agency of the Unsolicited Proposal submitted by Challenger Court, Inc., for the acquisition and development of the remainder of Parcel 76, (G and 9th Streets, S.W.), in the former southwest "C" Urban Renewal Area.

§ 5-811. Modification of redevelopment plans.

Urban Renewal Plan for the Downtown Urban Renewal Area, First Modification Approval Resolution of 1994. — Pursuant to Resolution 10-386, effective June 21, 1994, the Council approved modifications to the Urban Renewal Plan for the Downtown Urban Renewal Area, Project No. 1, located in Ward 2, as adopted by the National Capital Planning Commission.

Urban Renewal Plan for the Southwest Urban Renewal Area, Project "C", Second Modification Approval Resolution of 1994. — Pursuant to Resolution 10-470, effective December 6, 1994, the Council approved modifications to the Urban Renewal Plan for the Southwest Urban Renewal Area, Project "C", located in Ward 2, as adopted by the National Capital Planning Commission.

Urban Renewal Plan for the Southwest Urban Renewal Area, Project "C", First Modification Approval Resolution of 1994. — Pursuant to Resolution 10-472, effective December 6, 1994, the Council approved modifications to the Urban Renewal Plan for the Southwest Urban Renewal Area, Project "C", located in Ward 2, as adopted by the National Capital

Planning Commission. Section 3(c) of Resolution 10-472 was amended by § 60 of D.C. Law 11-110.

Urban Renewal Plan for the Downtown Urban Renewal Area, First Modification Approval Resolution of 1995. — Pursuant to Resolution 11-123, effective July 29, 1995, the Council approved modifications to the Urban Renewal Plan for the Downtown Urban Renewal Area, located in Ward 2, as adopted by the National Capital Planning Commission.

Urban Renewal Plan for the Downtown Urban Renewal Area, Second Modification Approval Resolution of 1995. — Pursuant to Resolution 11-142, effective October 10, 1995, the Council approved modifications to the Urban Renewal Plan for the Downtown Urban Renewal Area, located in Ward 2, as adopted by the National Capital Planning Commission.

Urban Renewal Plan for the Fourteenth Street Urban Renewal Area Modification Approval Resolution of 1998. — Pursuant to Resolution 12-671, effective July 30, 1998, the Council approved the modifications to the Urban Renewal Plan for the Fourteenth Street Urban Renewal Area.

§ 5-825. Same — Lease of property by Agency; other transfers limited; priority of owner of displaced business concern.

Cited in *In re M.M.D.*, App. D.C., 662 A.2d 837 (1995).

CHAPTER 9. COMMUNITY DEVELOPMENT.

Sec.

5-904. Same — Implementation.

§ 5-901. Findings and objectives.

Temporary amendment of section. — Sections 2(a) and (b) of D.C. Law 12-246 amended (b) and (c) to read as follows:

“(b) The Council further finds and declares that the future welfare of the District of Columbia and the well-being of its citizens depend on the establishment and maintenance of the District of Columbia as a viable physical, social, economic, and political community, and require for the benefit of the communities being directly affected:

“(1) Systematic and sustained action to eliminate blight, to conserve and renew aging urban neighborhoods, to improve the living environment of low and moderate income families, and to develop new residential and economic activity centers throughout the District;

“(2) Substantial expansion of and greater continuity in the scope and level of federal and local financial assistance together with increased private investment in support of community development activities;

“(3) Continuing effort at all levels of government to develop programs to meet identified needs and to improve the functioning of departments and agencies responsible for planning, implementing, and evaluating community development efforts;

“(4) Ongoing assistance to the secondary market for residential mortgages on housing for low- and moderate-income families by increasing the liquidity of mortgage investments and reinvesting investment proceeds for residential mortgage financing; and

“(5) Management and liquidation of District of Columbia owned mortgage portfolios in an orderly manner in accordance with procurement requirements, with minimum loss to the District government.”

“(c) The primary objective of this chapter is the maintenance and development of the District of Columbia as a viable urban community, by providing decent housing, a suitable living environment and expanding economic opportunities, principally for person of low and moderate income. Consistent with this primary objective the chapter provides for the support of community development activities which are

directed toward the following specific objectives.

“(8) The establishment of data-gathering, planning, policy, and program development which will ensure effective monitoring of and programming responsive to the changing numbers, characteristics, and needs of the people of the District of Columbia.

“(9) The continuation of development activities in those areas previously covered by urban renewal or neighborhood development plans until completed; and

“(10) Promote access to mortgage credit throughout the District of Columbia by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for low- and moderate-income persons to acquire residential mortgage financing.”

Section 4(b) of D.C. Law 12-246 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(a) and (b) of the Community Development Program Emergency Amendment Act of 1998 (D.C. Act 12-557, January 12, 1999, 45 DCR 635).

Legislative history of Law 12-246. — Law 12-246, the “Community Development Program Temporary Amendment Act of 1998,” was introduced to Council and assigned Bill No. 12-884. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 24, 1998, it was assigned Act No. 12-583 and transmitted to both Houses of Congress for its review. D.C. Law 12-246 became effective on April 20, 1999.

Minor Modification of CD-15 Through Cd-23 Program Years Under the Community Development Block Grant Program Emergency Approval Resolution of 1998. — Pursuant to Resolution 12-498, effective May 5, 1998, the Council approved a modification of CD-15 through CD-23 program years under the Community Development Block Grant Program administered by the Department of Housing and Community Development.

§ 5-902. Community Development Program — Annual preparation and submission to Council; content; public hearings.

Section references. — This section is referred to in §§ 1-2295.19, 1-2295.27, and 5-906.

Temporary amendment of section. — Section 2(c) of D.C. Law 12-246 amended (a)(2) to read as follows:

“(a) The Mayor annually shall prepare and submit to the Council a proposed Community

Development Program (as such program is defined or may hereafter be defined in Title I of the Housing and Community Development Act of 1974), which:

“(2) Describes a program which:

“(B) Indicates the resources which are proposed to be made available toward meeting the identified needs and objectives;

“(C) Indicates the environmental review status of proposed community development activities; and

“(D) Includes activities designed to maximize the use and availability of funds designated to support community development projects;”.

Section 4(b) of D.C. Law 12-246 provided that this act shall expire after 225 days of its having taken effect.

Emergency act amendments.

For temporary amendment of section, see § 2(c) of the Community Development Program Emergency Amendment Act of 1998 (D.C. Act 12-557, January 12, 1999, 45 DCR 635).

Legislative history of Law 12-246. — See note to § 5-901.

Community Development Block Grant Program Twentieth Year Approval Resolution of 1994. — Pursuant to Resolution 10-348, effective May 3, 1994, the Council approved the District of Columbia's Final Statement of Community Development objectives and projected use of funds for the Twentieth Year Community Development Block Grant Program; authorized the filing of the final statement with the United States Department of Housing and Urban Development; and approved the Twentieth Year Community Development Block Grant Program Description.

CD-18 and Prior Year Reprogramming Emergency Approval Resolution of 1994. — Pursuant to Resolution 10-378, effective June 7, 1994, the Council approved, on an emergency basis, the District of Columbia's

reprogramming of funds for the Eighteenth Year Community Development Block Grant Program and prior years and authorized the filing of the reprogramming with the United States Department of Housing and Urban Development.

Consolidated Plan and CD-19 Program Modification Approval Resolution of 1995.

— Pursuant to Resolution 11-99, effective July 11, 1995, the Council approved the Consolidated Plan for the District of Columbia, which incorporates four previously separate annual grant applications into a single submission for funding from the U.S. Department of Housing and Urban Development, for the Years 1996 to 2000, and a Program Modification for the Nineteenth Year Community Development Program (CD-19).

FY 1997 Action Plan approval Resolution of 1996. — Pursuant to Resolution 11-415, effective July 3, 1996, Council approved the Fiscal Year 1997 Action Plan of the Consolidated Plan for the District of Columbia which incorporates four previously separate annual grant applications into a single submission for funding from the U.S. Department of Housing and Urban Development for the Twentieth Second Year Community Development Program (CD-22).

Fiscal Year 1999 Action Plan Approval Resolution of 1998. — Pursuant to Resolution 12-590, effective July 7, 1998, the Council approved the Fiscal Year 1999 Action Plan of the Consolidated Plan for the District of Columbia which incorporates four previously separate annual grant applications into a single submission for funding from the U.S. Department of Housing and Urban Development for the Twenty-Fourth Year Community Development Program.

§ 5-903. Same — Activities permitted.

Temporary amendment of section. — Section 2(d) of D.C. Law 12-246 amended (13) and added (13A) to read as follows:

“An approved Community Development Program may include the following activities:

“(13) Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are proposed;

“(13A) To sell, at private or public sale, with or without public bidding, any mortgage or other obligation held by the Department; and”.

Section 4(b) of D.C. Law 12-246 provided that this act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(d) of the Community Development Program Emergency Amendment Act of 1998 (D.C. Act 12-557, January 12, 1999, 45 DCR 635).

Legislative history of Law 12-246 — See note to § 5-901.

§ 5-904. Same — Implementation.

(a) After the approval of a Community Development Program by the Council pursuant to § 5-902, the Mayor is authorized to submit to the Secretary of Housing and Urban Development an application, meeting the

requirements of the Housing and Community Development Act of 1974 and regulations issued pursuant thereto or amendments thereof, for financial assistance to implement said program. In connection therewith, the Mayor is authorized to:

* * * * *

(1973 Ed., § 5-1004; Dec. 16, 1975, D.C. Law 1-39, § 5, 22 DCR 3448.)

Temporary amendment of section. — Section 2(e) of D.C. Law 12-246 added (e) and (f) to read as follows:

“(e) Notwithstanding any other law, rules or regulations, the Department may offer its loans for sale on the secondary market in order to generate additional funds to make more loans available to low- and moderate-income persons.

“(f) The sale of mortgages under this section shall be confined, so far as practicable, to mortgages which are deemed by the District to be of such quality, type and class as to meet, generally, the purchase standards imposed by private institutional mortgage investors. The establishment of the sale prices, in the secondary market operation under this section, shall be determined by the Director from time to time and shall be consistent with the expectation that such sales should be effected only at such

prices and on such terms as will reasonably prevent excessive loss to the District and prevent excessive use of the Department's assets. Further, the establishment of sale prices shall be subject to the review and approval of the District's Chief Financial Officer.”

Section 4(b) of D.C. Law 12-246 provided that this act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(e) of the Community Development Program Emergency Amendment Act of 1998 (D.C. Act 12-557, January 12, 1999, 45 DCR 635).

Legislative history of Law 12-246. — See note to § 5-901.

Editor's notes. — The introductory language of (a) is set out above to correct an error appearing in the bound volume.

§ 5-905. Acquisition and disposition of real property.

Acceptance of a Proposal for the Negotiated Disposition and Rehabilitation of the Roosevelt for Senior Citizens Resolution of 1994. — Pursuant to Resolution 10-354, effective May 3, 1994, the Council approved a proposal submitted by Access Housing, Inc. for a negotiated disposition and rehabilitation of the Roosevelt for Senior Citizens, 2101 16th Street, N.W.

Unsolicited Proposal Submitted by the Potomac Electric Power Company for the Negotiated Disposition of 1501 Alabama Street, S.E., Approval Resolution of 1994. — Pursuant to Resolution 10-481, effective December 6, 1994, the Council approved an unsolicited proposal submitted by the Potomac Electric Power Company for the negotiated disposition of 1501 Alabama Street, S.E.

Unsolicited Proposal Submitted by IDS/Turner Limited Partnership for the Negotiated Disposition of Square 4120, Lot 800 Approval Resolution of 1994. — Pursuant to Resolution 10-482, effective December 6, 1994, the Council approved an unsolicited proposal submitted by IDS/Turner Limited Partnership for the negotiated disposition of Square 4120, Lot 800 located at 18th and Bryant Streets, N.E.

Unsolicited Proposal to Develop the Martin Luther King, Jr., Development, Lot 829, Square 5770 Approval Resolution of

1996. — Pursuant to Resolution 11-365, effective June 4, 1996, Council reviewed an approved an Unsolicited Proposal to Develop Lot 829, Square 5770, located at 1909—1913 Martin Luther King, Jr., Avenue, N.W., and legally described as Lot 829, Square 5770.

Unsolicited Proposal Submitted by Crane Rental Company for the Negotiated Disposition of Property located in Lots 227 and 900 in Square 4107, and Lots 826 and 827 in Square 4103, on W Street, N.E., Approval Resolution of 1996. — Pursuant to Resolution 11-366, effective June 4, 1996, Council reviewed and approved an Unsolicited Proposal submitted by Crane Rental Company for the negotiated disposition of property located in Lots 227 and 900 in Square 4107, and Lots 826 and 827 in Square 4103, on W Street, N.E.

Negotiated Disposition of Property Located in Square 272, Lot 45, in the 1200 block of V Street, N.W., to Donatelli & Klein, Inc., Approval Resolution of 1996. — Pursuant to Resolution 11-367, effective June 4, 1996, Council approved a negotiated disposition of property located in Square 272, Lot 45, at the intersections of 13th Street, N.W., 12th Street, N.W., V Street, N.W., and W Street, N.W., to Donatelli & Klein, Inc.

Request for Offers for the Disposition for the Roosevelt Apartment for Senior

Citizens, 2101 16th Street, N.W., Lot 802, in Square 188, Approval Resolution of 1996. — Pursuant to Resolution 11-633, effective December 3, 1996, Council approved the Request for Offers for the disposition of the Roosevelt Apartment for Senior Citizens located at 2101 16th Street, N.W., and legally described as Lot 802, Square 188, in Ward 1.

Unsolicited Proposal to Develop the Anacostia Northern Gateway Project Approval Resolution of 1997. — Proposed Resolution 12-0111, the "Unsolicited Proposal to Develop the Anacostia Northern Gateway Project Approval Resolution of 1997" was deemed approved, effective Feb. 12, 1997.

CHAPTER 10. HISTORIC LANDMARK AND HISTORIC DISTRICT PROTECTION.

Subchapter I. General Provisions.

Sec.

5-1002. Definitions.

5-1003. Historic Preservation Review Board.

5-1012. Administrative procedures.

Subchapter III. New Washington Convention Center Neighborhood Stability.

5-1031. Definitions.

Sec.

5-1032. Review and approval required for demolition permits.

5-1033. Review and approval of applications.

5-1034. Exceptions.

5-1035. Judicial review.

5-1036. Penalties; remedies.

5-1037. Applicability.

Subchapter I. General Provisions.

§ 5-1001. Declaration and purposes.

Foreign Missions Act. — "Substantial compliance" with this act pursuant to the Foreign Missions Act, 22 U.S.C. § 4306(d)(2), is compliance with the spirit of Law 2-144, which meant soliciting the views of the Mayor's Agent. *National Trust for Historic Preservation v. Department of State*, 834 F. Supp. 453 (D.D.C. 1993), aff'd in part and rev'd in part sub nom. *Sheridan Kalorama Historical Ass'n v. Christopher*, 49 F.3d 750 (D.C. Cir. 1995).

Demolition of historic landmark. — The Mayor's agent under the Preservation Act has no authority to order the demolition of a historic landmark in the interest of the health, safety, and welfare of the community. *District of Columbia Preservation League v. Department of Consumer & Regulatory Affairs*, App. D.C., 646 A.2d 984 (1994).

Where order of the Mayor's agent failed to cite any of the enumerated grounds upon which the Mayor or her agent were to permit the demolition of a historic landmark, and where the Mayor's agent engaged in a balancing of interests which took into account such factors as the cost of refurbishing the dilapidated structure and the threat it posed to the safety and welfare of the community, the agent acted in error. *District of Columbia Preservation League v. Department of Consumer & Regulatory Affairs*, App. D.C., 646 A.2d 984 (1994).

Installation of trash dumpster and recycling bins. — A request for a permit to install a trash dumpster and recycling bins perma-

nently on a public space, and to surround the dumpster and bins with a wooden fence, contemplated a site alteration within the meaning of § 5-1005(a). *Foster v. Mayor's Agent for Historic Preservation*, App. D.C., 698 A.2d 411 (1997).

The determination by the Mayor's agent for historic preservation that permanent installation of trash dumpsters on a public space was inconsistent with preserving the sightliness and historic integrity of districts covered by this act was reasonable and not in contravention of the law. *Foster v. Mayor's Agent for Historic Preservation*, App. D.C., 698 A.2d 411 (1997).

Restrictions on future development. — Since the Preservation Act contains no language authorizing the Mayor (or her agent) to limit the future use of a site once occupied by a historic landmark, the Mayor's agent exceeded his authority in restricting future development. *District of Columbia Preservation League v. Department of Consumer & Regulatory Affairs*, App. D.C., 646 A.2d 984 (1994).

Cited in *Hotel Tabard Inn v. District of Columbia Zoning Comm'n*, App. D.C., 661 A.2d 150 (1995); *Reneau v. District of Columbia*, App. D.C., 676 A.2d 913 (1996); *District Intown Properties, Ltd. v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 680 A.2d 1373 (1996); *Sagalyn v. Foundation for Preservation of Historic Georgetown*, App. D.C., 691 A.2d 107 (1997); *District of Columbia*

Preservation League v. District of Columbia
Dep't of Consumer & Regulatory Affairs, App.
D.C., 711 A.2d 1273 (1998).

§ 5-1002. Definitions.

For the purposes of this subchapter the term:

* * * * *

(6) "Historic landmark" means a building, structure, object, or feature, and its site, or a site:

* * * * *

(B) Listed in the District of Columbia's inventory of historic sites, or for which application for such listing is pending with the Historic Preservation Review Board; provided, that the Review Board shall schedule a hearing on the application within 90 days of one having been filed, and will determine within 90 days of receipt of an application pursuant to §§ 5-1004 through 5-1008 whether to list such property as a historic landmark pursuant to the procedures contained in § 5-1003(c)(5).

* * * * *

(Apr. 29, 1998, D.C. Law 12-86, § 503(a), 45 DCR 1172.)

Effect of amendments. — D.C. Law 12-86, in (6)(B), rewrote the proviso.

Legislative history of Law 12-86. — Law 12-86, the "Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

Paragraph (11) is not unconstitutionally vague.

The "special merit" provision of this subchapter is not unconstitutionally vague. *Kalorama Heights Ltd. Partnership v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 655 A.2d 865 (1995).

"Alteration." — A request for a permit to install a trash dumpster and recycling bins permanently on a public space, and to surround the dumpster and bins with a wooden fence, contemplated a site alteration within the meaning of § 5-1005(a). *Foster v. Mayor's Agent for Historic Preservation*, App. D.C., 698 A.2d 411 (1997).

Demolition of wall. — Although once an exterior wall, it was reasonable to conclude that a present interior wall was now an interior

element and, therefore not subject to provisions of this chapter. *District of Columbia Preservation League v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 711 A.2d 1273 (1998).

Evidence sufficient to support finding of failure to prove special merit of project.

Where developer had neither shown that its project had social or other benefits that differed from those of other condominium projects nor demonstrated that it considered reasonable alternatives to complete demolition, the Mayor's Agent's decision finding no "special merit" was not erroneous. Consequently, the Mayor's Agent was not required to weigh the historic value of the house to be demolished against the proposed benefits of a condominium project. *Kalorama Heights Ltd. Partnership v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 655 A.2d 865 (1995).

Mayor's agent exceeded his statutory authority under the Preservation Act in granting demolition permit, and the Mayor's agent has no authority to impose a restrictive covenant on the land. *District of Columbia Preservation League v. Department of Consumer & Regulatory Affairs*, App. D.C., 646 A.2d 984 (1994).

Cited in *Reneau v. District of Columbia*, App. D.C., 676 A.2d 913 (1996); *District Intown Properties, Ltd. v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 680 A.2d 1373 (1996); *District Intown Properties*

Ltd. Partnership v. District of Columbia, 23 F. Supp. 2d 30 (D.D.C. 1998).

§ 5-1003. Historic Preservation Review Board.

* * * * *

(c) The Review Board shall:

* * * * *

(5) Consider applications to designate historic landmarks under the contested case procedures contained in § 1-1509.

(d)(1) If, after a hearing, the Review Board has determined to deny an application to designate a building, structure, object or feature, and its site, as a historic landmark, or has determined to deny an application to designate a historic district, the Review Board shall not accept a subsequent application for that designation within 12 months of the denial.

(2) If an application for designation of a historic landmark or historic district is withdrawn, no more than 1 new application may be filed 12 months from the date that the application is withdrawn. (1973 Ed., § 5-823; Mar. 3, 1979, D.C. Law 2-144, § 4, 25 DCR 6939; Apr. 29, 1998, D.C. Law 12-86, § 503(b), 45 DCR 1172.)

Section references.

This section is referred to in § 1-633.7.

Cross references. — As to compensation for Historic Preservation Review Board members, see § 1-612.8(c)(2)(H).

As to compensation for Chairperson of Historic Preservation Review Board, see § 1-612.8(c)(2)(J).

Effect of amendments. — D.C. Law 12-86 added (c)(5) and (d).

Legislative history of Law 12-86. — Law 12-86, the "Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

Amendment of Mayor's Order 83-119, dated May 6, 1983, Establishment of Historic Preservation Review Board. — See Mayor's Order 98-12, February 12, 1998 (45 DCR 1089).

Cited in Metropolitan Baptist Church v. District of Columbia Dep't of Consumer & Regulatory Affairs, App. D.C., 718 A.2d 119 (1998).

§ 5-1004. Demolitions.

Special merit provision is not unconstitutionally vague. — The "special merit" provision of § 5-1002(11) is not unconstitutionally vague. *Kalorama Heights Ltd. Partnership v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 655 A.2d 865 (1995).

Burden of proof.

The applicant has the burden of proving entitlement to a demolition permit. In meeting this burden, the applicant must show that it considered alternatives to the total demolition of the historic building and that these alternatives were not reasonable. *Kalorama Heights Ltd. Partnership v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 655 A.2d 865 (1995).

Unreasonable economic hardship. — When an applicant relies on the "unreasonable economic hardship" exception of subsection (e), an inquiry into the cost of revitalizing a building is not only relevant but required. *District of Columbia Preservation League v. Department of Consumer & Regulatory Affairs*, App. D.C., 646 A.2d 984 (1994).

Economic considerations. — Unlike applications for permits to demolish, alter or subdivide a historic landmark or property in a historic district under this section and §§ 5-1005 and 5-1006, under § 5-1007, a permit for construction which is incompatible with a historic landmark may not be permitted in order to avoid economic hardship to a developer.

District Intown Properties, Ltd. v. District of Columbia Dep't of Consumer & Regulatory Affairs, App. D.C., 680 A.2d 1373 (1996).

Altering character of historic district. — Because demolition of a chancery building would have altered the character of the historic districts in which it was situated, defendant was required to comply substantially with the National Historic Preservation Act and local preservation laws. *National Trust for Historic Preservation v. Department of State*, 834 F. Supp. 443 (D.D.C. 1993), *aff'd* in part and *rev'd* in part sub nom. *Sheridan Kalorama Historical Ass'n v. Christopher*, 49 F.3d 750 (D.C. Cir. 1995).

Interior wall. — Although once an exterior wall, it was reasonable to conclude that a

present interior wall was now an interior element and, therefore not subject to provisions of this chapter. *District of Columbia Preservation League v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 711 A.2d 1273 (1998).

Health, safety, and welfare of community. — The Mayor's agent under the Preservation Act has no authority to order the demolition of a historic landmark in the interest of the health, safety, and welfare of the community. *District of Columbia Preservation League v. Department of Consumer & Regulatory Affairs*, App. D.C., 646 A.2d 984 (1994).

Cited in *Metropolitan Baptist Church v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 718 A.2d 119 (1998).

§ 5-1005. Alterations.

Installation of trash dumpster and recycling bins. — A request for a permit to install a trash dumpster and recycling bins permanently on a public space, and to surround the dumpster and bins with a wooden fence, contemplated a site alteration within the meaning of subdivision (a) of this section. *Foster v. Mayor's Agent for Historic Preservation*, App. D.C., 698 A.2d 411 (1997).

The determination by the Mayor's agent for historic preservation that permanent installation of trash dumpsters on a public space was inconsistent with preserving the sightliness and historic integrity of districts covered by this act was reasonable and not in contravention of the law. *Foster v. Mayor's Agent for Historic Preservation*, App. D.C., 698 A.2d 411 (1997).

Denial of permit for alterations. — Where a townhouse owner did not meet the requirement of compatibility in § 5-1001(b)(1)(B), and where the townhouse owner presented no evidence as to why issuance of the permit for his proposed additions was necessary in the public interest, even to encourage

adaption of his property for current use, the Mayor's agent's application of the statute in denying the permit was not unreasonable. *Reneau v. District of Columbia*, App. D.C., 676 A.2d 913 (1996).

Economic considerations. — Unlike applications for permits to demolish, alter or subdivide a historic landmark or property in a historic district under this section and §§ 5-1004 and 5-1006, under § 5-1007, a permit for construction which is incompatible with a historic landmark may not be permitted in order to avoid economic hardship to a developer. *District Intown Properties, Ltd. v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 680 A.2d 1373 (1996).

Cited in *Sagalyn v. Foundation for Preservation of Historic Georgetown*, App. D.C., 691 A.2d 107 (1997); *District Intown Properties Ltd. Partnership v. District of Columbia*, 23 F. Supp. 2d 30 (D.D.C. 1998); *Metropolitan Baptist Church v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 718 A.2d 119 (1998).

§ 5-1006. Subdivisions.

Economic considerations. — Unlike applications for permits to demolish, alter or subdivide a historic landmark or property in a historic district under this section and §§ 5-1004 and 5-1005, under § 5-1007, a permit for construction which is incompatible with a his-

toric landmark may not be permitted in order to avoid economic hardship to a developer. *District Intown Properties, Ltd. v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 680 A.2d 1373 (1996).

§ 5-1007. New construction.

Economic considerations. — Unlike applications for permits to demolish, alter or subdivide a historic landmark or property in a historic district under §§ 5-1004 to 5-1006, under this section, a permit for construction which is incompatible with a historic landmark

may not be permitted in order to avoid economic hardship to a developer. *District Intown Properties, Ltd. v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 680 A.2d 1373 (1996).

Authority of Mayor's Agent. — Where the

Mayor's Agent lacked authority to issue the requested building permits even if the landowner/developer proved that it would otherwise suffer unreasonable economic hardship, his disposition of that issue was not only dictum but also in excess of his statutory jurisdiction and had no preclusive effect in any future proceeding in which the landowner/developer might

claim an uncompensated taking. *District Intown Properties, Ltd. v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 680 A.2d 1373 (1996).

Cited in *District Intown Properties Ltd. Partnership v. District of Columbia*, 23 F. Supp. 2d 30 (D.D.C. 1998).

§ 5-1012. Administrative procedures.

(a) In any case of demolition, alteration, or new construction in which a hearing was held, the Mayor's decision on such application shall not become final until 15 days after issuance. In all applications for which a hearing is held, the Mayor's decision must be issued within 60 days after the hearing record is closed, including the filing of any required post-hearing submissions, or the application shall be deemed approved by the Mayor.

(b) All proceedings pursuant to this subchapter shall be conducted in accordance with the applicable provisions of Chapter 15 of Title 1. The hearing by the Review Board upon the filing of an application to designate a historic landmark shall be conducted under the contested case procedures contained in § 1-1509. Any final order of the Mayor under this subchapter and any final order of the Review Board regarding the designation of a historic landmark shall be reviewable in the District of Columbia Court of Appeals. (1973 Ed., § 5-832; Mar. 3, 1979, D.C. Law 2-144, § 13, 25 DCR 6939; Apr. 29, 1998, D.C. Law 12-86, § 503(c), 45 DCR 1172.)

Effect of amendments. — D.C. Law 12-86, in (a), added the second sentence; and rewrote (b).

Legislative history of Law 12-86. — See note to § 5-1003.

Review required. — Since the Foreign Mission Act requires only "substantial compliance" with the National Historic Preservation Act, a destruction of a chancery building matter must have been referred to the Advisory Council and the Historic Review Board for expeditious review. *National Trust for Historic Preservation v. Department of State*, 834 F. Supp. 443 (D.D.C. 1993), aff'd in part and rev'd in part sub nom. *Sheridan Kalorama Historical Ass'n v. Christopher*, 49 F.3d 750 (D.C. Cir. 1995).

Timeliness of comments. — Because decisions under the Foreign Missions Act, 22 U.S.C. § 4301 et seq., must be made within six months of the application's submission, any comments submitted pursuant to either federal or District of Columbia historic preservation law must be made well within that time frame. *National Trust for Historic Preservation v. Department of State*, 834 F. Supp. 443 (D.D.C. 1993), aff'd in part and rev'd in part sub nom. *Sheridan Kalorama Historical Ass'n v. Christopher*, 49 F.3d 750 (D.C. Cir. 1995).

Cited in *Metropolitan Baptist Church v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 718 A.2d 119 (1998).

Subchapter II. Historic Rhodes Tavern.

§ 5-1023. Duties of Advisory Board.

Emergency act amendments. — For temporary requirements for applying for demolition permits for Protected Property, see §§ 2-8 of the New Washington Convention Center

Neighborhood Stability Congressional Review Emergency Act of 1998 (D.C. Act 12-302, March 20, 1998, 45 DCR 2118).

*Subchapter III. New Washington Convention Center
Neighborhood Stability.*

§ 5-1031. Definitions.

For the purposes of this subchapter, the term:

(1) “Demolition” or “Demolish” means the razing or destruction, entirely or in significant part, of a building or structure, and includes the removal or destruction of any facade of a building or structure.

(2) “Mayor” means the Mayor of the District of Columbia or his designated agent.

(3) “Protected Property” means any building or structure 50 years old or older, within the boundaries of the “Protected Areas.” The Protected Areas are as follows:

(A) Squares 315, 338, 340, 341, 366, 369, 450, 451, 482, 513, 514, 523, and 524;

(B) Square 282, Lot 815;

(C) Square 283, Lots 46 and 47;

(D) Square 284, Lot 816;

(E) Square 313, Lots 802, 803, 804, 805, 806, 812, 830, 832, and 834;

(F) Square 314, excluding Lot 47;

(G) Square 339, Lots 19, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 802, 803, 804, and the eastern portion of Lot 806 (formerly lot 1 and lot 800) occupied by the New Bethany Baptist Church;

(H) Square 399, Lots 50, 51, 52, 53, 54, 55, 61, 62, 63, 800, 801, 803, 804, 825, 826, 827, 828, 829, 830, 831, 832, 833, and 834;

(I) Square 423, Lots 2, 800, 801, 802, and 803;

(J) Square 449, Lots 25, 26, 29, 30, 40, 41, 42, 43, 44, 47, 49, 50, 51, 52, 58, 800, 851, 852, 853, 854, 855, 858, 859, 863, 864, 865, and 882;

(K) Square 555 west of Kirby Street, N.W., including Lots

64	73	74	75	80	81	82	83	84	85	86
92	93	94	95	96	97	98	102	103	106	107
111	112	113	114	115	116	123	124	125	126	127
128	131	132	133	134	135	136	137	138	139	140
141	142	143	144	145	150	151	152	153	154	155
156	157	159	160	161	162	805	806	807	808	809
810	811	812	813	814	815	816	817	818	820	821
822	824	825	827	828;	and					

(L) Square 371, Lot 813, Henley Park Hotel.

(4) “Unreasonable economic hardship” means that failure to issue a permit would amount to a taking of the owner’s property without just compensation, or in the case of a low-income owner as determined by the Mayor, failure to issue a permit would place an onerous and excessive financial burden upon such owner. (Apr. 29, 1998, D.C. Law 12-93, § 2, 45 DCR 1316.)

Emergency act amendments. — For temporary addition of subchapter, see §§ 2 through 8 of the New Washington Convention Center Neighborhood Stability Emergency Act of 1997

(D.C. Act 12-238, January 13, 1998, 45 DCR 503).

Legislative history of Law 12-93. — Law 12-93, the “New Washington Convention Cen-

ter Neighborhood Stability Act of 1998,” was introduced in Council and assigned Bill No. 12-449, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 16, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 26, 1998, it was assigned Act

No. 12-266 and transmitted to both Houses of Congress for its review. D.C. Law 12-93 became effective on April 29, 1998.

Expiration of Law 12-93. — Section 10(b) of D.C. Law 12-93 provided that the act shall remain in effect for a period not to exceed 18 months from the effective date of the act.

§ 5-1032. Review and approval required for demolition permits.

All applications for demolition permits for Protected Properties shall be reviewed by the Historic Preservation Review Board (“HPRB”). No permit for demolition shall be issued by the Mayor for the demolition of any Protected Property unless the applicant obtains an exception pursuant to § 5-1034. (Apr. 29, 1998, D.C. Law 12-93, § 3, 45 DCR 1316.)

Emergency act amendments. — See note to § 5-1031.

Expiration of Law 12-93. — See note to § 5-1031.

Legislative history of Law 12-93. — See note to § 5-1031.

§ 5-1033. Review and approval of applications.

(a) The HPRB will review applications for historic districts within the Protected Area, which will be submitted pursuant to the Memorandum of Agreement regarding the New Washington Convention Center, signed by the Council on September 4, 1997, together with the Mayor, the National Capital Planning Commission, and the Advisory Council on Historic Preservation, pursuant to section 106 of the National Historic Preservation Act, approved October 15, 1966 (80 Stat. 917; 16 U.S.C. § 470f).

(b) The HPRB shall determine within 90 days of receipt of any application, and within 45 days after holding a public hearing, whether to designate the historic district in accordance with existing HPRB criteria. In the absence of a decision by the HPRB within the required time, the application will be deemed approved.

(c) Within 30 days after a decision by the HPRB, the D.C. State Historic Preservation Officer (“SHPO”) shall issue a written determination on whether to nominate the historic district to the National Register of Historic Places. In the absence of a determination by the SHPO, the historic district nomination shall be forwarded to the Keeper of the National Register.

(d) Once a determination by the SHPO has been issued, and 30 days have passed after publication of notice in the District of Columbia Register, the requirements of this subchapter will expire for all Protected Properties located within such district, and the provisions of Chapter 10 of Title 5, will apply if the historic district is designated.

(e) The requirements of this subchapter will continue to apply, until the subchapter expires, to Protected Properties located within any other potential historic district or districts in the Protected Area for which a written determination has not yet been issued by the SHPO. (Apr. 29, 1998, D.C. Law 12-93, § 4, 45 DCR 1316.)

Emergency act amendments. — See note to § 5-1031.

Legislative history of Law 12-93. — See note to § 5-1031.

Expiration of Law 12-93. — See note to § 5-1031.

§ 5-1034. Exceptions.

(a) This subchapter does not apply to buildings or structures that are less than 50 years old. An applicant may obtain a determination from HPRB staff as to whether the property falls within this exception.

(b) Any applicant denied a permit under this subchapter may request that the application be considered at the next regular public meeting of the HPRB to seek issuance of the permit on the grounds that the building or structure does not contribute to a potential historic district.

(c) Any applicant denied a permit under this subchapter may request a public hearing before the Mayor to seek issuance of the permit, which shall only be issued if the Mayor determines that failure to issue a permit will result in unreasonable economic hardship to the owner. The owner shall submit, by affidavit, to the Mayor, at least 20 days prior to the public hearing, information as follows:

(1) For all property:

(A) The amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;

(B) The assessed value of the land and improvements thereon according to the two most recent assessments;

(C) Real estate taxes for the previous 2 years;

(D) Annual debt service, if any, for the previous 2 years;

(E) All appraisals obtained within the previous 2 years by the owner or applicant in connection with the purchase, financing, or ownership of the property;

(F) Any listing of the property for sale or rent, price asked, and offers received, if any; and

(G) Any consideration by the owner as to profitable adaptive uses for the property; and

(2) For income-producing property:

(A) Annual gross income from the property for the previous 2 years;

(B) Itemized operating and maintenance expenses for the previous 2 years; and

(C) Annual cash flow, if any, for the previous 2 years.

(d) The Mayor may require that an applicant furnish such additional information as the Mayor believes is relevant to his determination of unreasonable economic hardship and may provide in appropriate instances that such additional information be furnished under seal.

(e) Within 120 days from the date of an applicant's request for a public hearing under subsection (c) of this section, the Mayor shall make a determination as to whether failure to issue the permit will result in unreasonable economic hardship to the owner. If the Mayor so determines, or if the Mayor fails to make a determination within the required time, the permit shall be issued. The decision of the Mayor on an application under this section shall not

become final until 15 days after issuance of the decision. (Apr. 29, 1998, D.C. Law 12-93, § 5, 45 DCR 1316.)

Emergency act amendments. — See note to § 5-1031.

Legislative history of Law 12-93. — See note to § 5-1031.

Expiration of Law 12-93. — See note to § 5-1031.

§ 5-1035. Judicial review.

All proceedings under this subchapter shall be conducted in accordance with the applicable provisions of Chapter 15 of Title 1. Any final order of the Mayor under this subchapter shall be reviewable in the District of Columbia Court of Appeals. (Apr. 29, 1998, D.C. Law 12-93, § 6, 45 DCR 1316.)

Emergency act amendments. — See note to § 5-1031.

Legislative history of Law 12-93. — See note to § 5-1031.

Expiration of Law 12-93. — See note to § 5-1031.

§ 5-1036. Penalties; remedies.

(a) Any person who willfully violates any provision of this subchapter shall, upon conviction, be fined not less than 100% of the official appraised value of the Protected Property. All prosecutions for violation of this subchapter shall be brought in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel.

(b) Any person who demolishes a Protected Property in violation of this subchapter shall be required either to restore the building or structure and its site to its appearance prior to the violation, or to pay a fine in the amount of up to 100% of the official assessed value of the property. These civil remedies shall be in addition to, and not in lieu of, any criminal prosecution and penalty.

(c) In addition to all other remedies provided above, the Corporation Counsel or any neighboring property owner or occupant who would be damaged by any violation of this subchapter, may institute injunction, mandamus, or other appropriate enforcement action or proceeding, in the Superior Court of the District of Columbia, to prevent unlawful demolition, or to correct, abate, or remedy any violation of this subchapter. In addition to equitable remedies, the civil remedies identified in subsection (b) of this section shall be available as remedies for such actions. If a neighboring owner or occupant substantially prevails in a private enforcement action, the court may award attorney's fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable. (Apr. 29, 1998, D.C. Law 12-93, § 7, 45 DCR 1316.)

Emergency act amendments. — See note to § 5-1031.

Legislative history of Law 12-93. — See note to § 5-1031.

Expiration of Law 12-93. — See note to § 5-1031.

§ 5-1037. Applicability.

Notwithstanding any other provision of law, upon the effective date of this subchapter, all pending applications for demolition permits for Protected

Properties shall be subject to this subchapter. (Apr. 29, 1998, D.C. Law 12-93, § 8, 45 DCR 1316.)

Emergency act amendments. — See note to § 5-1031.

Legislative history of Law 12-93. — See note to § 5-1031.

Expiration of Law 12-93. — See note to § 5-1031.

CHAPTER 11. PRESERVATION OF HISTORIC PLACES AND AREAS IN THE GEORGETOWN AREA.

§ 5-1107. Appropriations to carry out § 5-1106.

Temporary addition of subchapter. — Section 2 of D.C. Law 11-209 added a new subchapter II, containing a single new § 5-1121 to read as follows:

“§ 5-1121.

(a)(1) The operation of any new restaurant or restaurant related establishment whose business consists of more than 5% delivery or carryout, which was not in operation prior to July 3, 1996, shall not be permitted in a residentially zoned area, identified in the Zoning Regulations of the District of Columbia and shown in the official atlases of the Zoning Commission for the District of Columbia, that is located within the boundaries of the Georgetown Historic District (as established by Chapter 11 of Title 5, subchapter I of this chapter, and shall constitute a public nuisance.

(a)(2) For the purposes of this subsection, the term “new restaurant or restaurant related establishment” means a licensed food service establishment in which the owner of the property or the owner of the licensed food service establishment located on the property changes the type of business being conducted, or a new owner who purchases the entity and changes the type of business being conducted.

(b) The Corporation Counsel or affected

members of the public may maintain an action in Superior Court of the District of Columbia to abate and enjoin perpetually the nuisance.”

Section 4(b) of D.C. Law 11-209 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary addition of subchapter II, consisting of § 5-1121, see § 2 of the Preservation of Residential Neighborhoods Against Nuisances Emergency Act of 1996 (D.C. Act 11-352, August 12, 1996, 43 DCR 4626), and § 2 of the Preservation of Residential Neighborhoods Against Nuisances Congressional Review Emergency Act of 1996 (D.C. Act 11-412, October 28, 1996, 43 DCR 6068).

Legislative history of Law 11-209. — Law 11-209, the “Preservation of Residential Neighborhoods Against Nuisances Temporary Act of 1996,” was introduced in Council and assigned Bill No. 11-811. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on August 6, 1996, it was assigned Act No. 11-384 and transmitted to both Houses of Congress for its review. D.C. Law 11-209 became effective on April 9, 1997.

CHAPTER 12. REGULATION OF FOREIGN MISSIONS.

§ 5-1201. Congressional findings and policy.

Purpose of Foreign Missions Act. — The Foreign Missions Act was enacted to address an imbalance between the treatment of missions in this country and those abroad; the law was intended to create a mechanism to assure the protection of the interest of the United States, while giving due consideration to local concerns. *United States v. Board of Zoning Adjustment*, App. D.C., 644 A.2d 995 (1994).

One of the purposes of the Foreign Missions Act, as gleaned from the legislative history, was to avoid subjecting foreign diplomats to confrontational proceedings which would be incompatible with their diplomatic status. *United States v. Board of Zoning Adjustment*, App. D.C., 644 A.2d 995 (1994).

Proceedings in nature of rulemaking. — The legislative history of the Foreign Missions

Act reinforces the intention that the proceedings under it be of a rulemaking nature, as the plain language of the statute makes clear.

United States v. Board of Zoning Adjustment, App. D.C., 644 A.2d 995 (1994).

§ 5-1206. Location in District.

Cited in United States v. Board of Zoning Adjustment, App. D.C., 644 A.2d 995 (1994).

§ 5-1213. Extraordinary protective services.

Purpose of Foreign Missions Act. — The Foreign Missions Act was enacted to address an imbalance between the treatment of missions in this country and those abroad; the law was intended to create a mechanism to assure the

protection of the interest of the United States, while giving due consideration to local concerns. United States v. Board of Zoning Adjustment, App. D.C., 644 A.2d 995 (1994).

CHAPTER 13. CONSTRUCTION CODES.

Sec.

5-1303. Scope.

5-1305.1. Administration of construction regulations.

§ 5-1301. Definitions.

Cited in Weston v. Washington Metro. Area Transit, 78 F.3d 682 (D.C. Cir. 1996).

§ 5-1303. Scope.

* * * * *

(c) Except for permit requirements for land disturbing activities, the Construction Codes shall not apply to public buildings or premises owned by the United States government, including appurtenant structures and portions of buildings, premises, or structures, that are under the exclusive control of an officer of the United States government in his or her official capacity. If a lessor is responsible for the maintenance and repairs to property leased to the United States government, the property shall not be deemed to be under the exclusive control of an officer of the United States government.

* * * * *

(Aug. 26, 1994, D.C. Law 10-166, § 2, 41 DCR 4892.)

Effect of amendments.

D.C. Law 10-166 added "Except for permit requirements for land disturbing activities" at the beginning of (c).

Legislative history of Law 10-166. — Law 10-166, the "Soil Erosion and Sedimentation Control Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-536, which was referred to the Committee on Public

Works and the Environment. The Bill was adopted on first and second readings on June 7, 1994, and June 21, 1994, respectively. Signed by the Mayor on July 8, 1994, it was assigned Act No. 10-279 and transmitted to both Houses of Congress for its review. D.C. Law 10-166 became effective on August 26, 1994.

Cited in Weston v. Washington Metro. Area Transit, 78 F.3d 682 (D.C. Cir. 1996); Weston v.

Washington Metro. Area Transit Auth., 86 F.3d 216 (D.C. Cir. 1996); *Coleman v. District of Columbia*, 126 WLR 701 (Super. Ct. 1998).

§ 5-1304. Intent.

Persons protected.

A commercial tenant could not seek to force a landlord to comply with the construction codes.

Espenschied v. Mallick, App. D.C., 633 A.2d 388 (1993).

§ 5-1305.1. Administration of construction regulations.

(a) The Mayor or the Mayor's designee is authorized to administer and enforce the provisions of this act, including provisions regarding the Construction Codes, building permits, and certificates of occupancy, and all regulations issued pursuant thereto. In regulating and enforcing building permits and certificates of occupancy, the Director shall seek to assure that all buildings and structures in the District of Columbia are in full compliance with the Construction Codes adopted pursuant to this act and all zoning provisions in §§ 5-413 to 5-432, and regulations issued and enforced under those provisions. The Director shall seek to administer all building permits, certificates of occupancy and other provisions of this act, and all regulations issued hereunder, in a manner that is fair, efficient, predictable, readily adaptable to new technologies, consumer-oriented, devoid of unnecessary time delays and other administrative burdens, cost-effective, and directed at enhancing the protection of the public health, welfare, safety and quality of life.

(b) The Director may enforce the regulations issued pursuant to this act by means of covenants or agreements between the Department of Consumer and Regulatory Affairs and an affected party. All such covenants or agreements shall have the prior approval of the Office of the Corporation Counsel for legal sufficiency and compliance with all District and other laws. Where the Office of the Corporation Counsel determines that, under District law, a covenant or agreement may require the review and approval of other District agencies, it shall so notify such agencies and establish an inter-agency process for review and, if required under District law, approval. The Director shall coordinate with the Office of the Corporation Counsel the time required for the review and recommendations by the Office of the Corporation Counsel of any covenant or agreement proposed pursuant to this act. (Mar. 21, 1987, D.C. Law 6-216, § 6a, as added Apr. 20, 1999, D.C. Law 12-261, § 3002, 46 DCR 3142.)

Effect of amendments. — D.C. Law 12-261 added this section.

Legislative history of Law 12-261. — Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on

December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective April 20, 1999.

Land Use, Development, and Code Enforcement Amendment Act of 1998. — Section 3001 of Title III of D.C. Law 12-261 provided that this title may be cited as the "Land Use, Development, and Code Enforcement Amendment Act of 1998."

§ 5-1309. Amendments; supplements; editions.

Building and Land Regulation Administration User Fee Approval and Disapproval Resolution of 1994. — Pursuant to Resolution 10-370, effective June 7, 1994, the Council approved, in part, and disapproved, in part, rules to adopt a new Building and Land Regulation Administration User Fee Schedule.

Building and Land Regulation Administration User Fee Amendment Rulemaking

Approval Resolution of 1994. — Pursuant to Proposed Resolution 11-16, deemed approved February 18, 1995, Council approved Rules to adopt an amendment to the Building and Land Regulation Administration User Fee Schedule.

Cited in *Weston v. Washington Metro. Area Transit*, 78 F.3d 682 (D.C. Cir. 1996).

CHAPTER 14. ECONOMIC DEVELOPMENT ZONE INCENTIVES.

§ 5-1401. Establishment of economic development zones.

Section references. — This section is referred to in §§ 1-2295.20 and 47-3502.

Good Hope Marketplace Real Property Tax Abatement Qualification Resolution of 1996. — Pursuant to Resolution 11-290, effective April 16, 1996, Council approved the qualification of Safeway Stores, Inc.'s Good

Hope Marketplace project at 2845 Alabama Avenue, S.E., which is located in the Alabama Avenue Development Zone, as described in the Economic Development Zone Incentive Amendment Act of 1988, for an abatement of real property taxes pursuant to that act.

§ 5-1403. Tax and other development incentives for real property in economic development zones.

King Office Limited Partnership Real Property Tax Abatement Forgiveness Qualification disapproval Resolution of 1996. — Pursuant to Resolution 11-565, effective November 7, 1996, Council disapproved the Mayor's recommendation that real property

taxes be forgiven and abated for the King Office Limited Partnership's newly constructed office building at 3720 Martin Luther King, Jr., Avenue, S.E., Washington, D.C., pursuant to the Economic Development Zone Incentives Amendment Act of 1988.

§ 5-1404. Tax incentives for businesses in economic development zones.

CEMI-Ridgecrest, Inc., Real Property Tax and Water and Sewer Changes Relief Qualification Approval Emergency Resolution of 1998. — Pursuant to Resolution 12-605, effective July 7, 1998, the Council approved, on an emergency basis, the qualification of the Walter E. Washington Estates

Project, in Square 6159, Lot No. 125, in the 800 block of Bellevue Street, S.E., which is located in the Alabama Avenue Development Zone, owned by CEMI-Ridgecrest, Inc., for forgiveness of water and sewer charges and forgiveness and reduction of real property taxes owed.



